

MT LEGISLATIVE HISTORY

Chapter 9 1989 Special Session

Bill H 56 S _____ Original bill & hist. ☒ C

H. Committee on Labor + Employment Relations S. Committee on Labor + Employment Relations ^{Stu}

Hearing Date(s) June 27 ☒ C

Hearing Date(s) June 27 ☒ C

June 28 ☒ C ^P

July 10 ☒ C

Appropriation 7/7 _____ C

_____ C

_____ C

_____ C

Date Out June 28 ☒ C

July 10 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

6/26 INTRODUCED
 6/26 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 6/26 FISCAL NOTE REQUESTED
 6/27 HEARING
 6/29 FISCAL NOTE RECEIVED
 DIED IN COMMITTEE

HB 55 INTRODUCED BY PAVLOVICH, ET AL.
 ALLOW UNLIMITED PROGRESSIVE PRIZES IN VIDEO
 GAMBLING MACHINES CONNECTED TO A CENTRALIZED
 COMPUTERIZED SYSTEM

6/26 INTRODUCED
 6/26 REFERRED TO TAXATION
 6/26 FISCAL NOTE REQUESTED
 6/27 HEARING
 6/29 FISCAL NOTE RECEIVED
 DIED IN COMMITTEE

HB 56 INTRODUCED BY DRISCOLL, ET AL.
 REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE
 THE FREEZE ON MAXIMUM WEEKLY COMPENSATION
 BENEFITS PAYABLE BY AN INSURER

6/26 INTRODUCED
 6/26 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 6/26 FISCAL NOTE REQUESTED
 6/27 HEARING (HELD JOINTLY WITH SENATE LABOR)
 6/29 COMMITTEE REPORT--BILL PASSED AS AMENDED
 7/05 FISCAL NOTE RECEIVED
 7/06 FISCAL NOTE PRINTED
 7/06 2ND READING PASSED AS AMENDED 85 7
 7/06 TAKEN FROM ENGROSSING
 7/06 REREFERRED TO APPROPRIATIONS
 7/07 HEARING
 7/08 COMMITTEE REPORT--BILL PASSED AS AMENDED
 7/08 2ND READING PASSED AS AMENDED 91 0
 7/08 3RD READING PASSED 88 0

TRANSMITTED TO SENATE
 7/10 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 7/11 COMMITTEE REPORT--BILL CONCURRED
 7/11 2ND READING CONCURRED 49 1
 7/11 3RD READING CONCURRED 49 1

RETURNED TO HOUSE
 7/12 SIGNED BY SPEAKER
 7/12 SIGNED BY PRESIDENT
 7/13 TRANSMITTED TO GOVERNOR
 7/17 SIGNED BY GOVERNOR
 CHAPTER NUMBER 9 EFFECTIVE DATE: 07/17/89

HB 57 INTRODUCED BY DRISCOLL
 IMPOSE A TAX ON SOFT DRINKS TO REDUCE THE UNFUNDED
 LIABILITY IN THE WORKERS' COMPENSATION STATE
 FUND

6/26 INTRODUCED
 6/26 REFERRED TO LABOR & EMPLOYMENT RELATIONS

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

IN THE HOUSE

JUNE 26, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

JUNE 29, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JUNE 30, 1989

PRINTING REPORT.

JULY 6, 1989

SECOND READING, DO PASS AS AMENDED.

ON MOTION, TAKEN FROM ENGROSSING
AND REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

JULY 8, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON SECOND READING THIS DAY.

SECOND READING, DO PASS AS AMENDED.

ON MOTION, RULES SUSPENDED AND BILL
PLACED ON THIRD READING THIS DAY.

THIRD READING, PASSED.
AYES, 88; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JULY 10, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

JULY 11, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

JULY 11, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

4.

1 *House* BILL NO. *56*
2 INTRODUCED BY *Enright, Smith, Walker*
3 *Proble* *Mark Owens* *Roy Smith*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS'
5 COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
6 COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
7 PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
8 SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
9 IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO
10 THE CURRENT EMPLOYER PAYROLL TAX, TO REDUCE THE UNFUNDED
11 LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND;
12 AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721,
13 39-71-1024, AND 39-71-2501 THROUGH 39-71-2504, MCA; AND
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE,
15 AND A RETROACTIVE APPLICABILITY DATE."
16

17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 **Section 1.** Section 39-71-701, MCA, is amended to read:

19 "39-71-701. Compensation for temporary total
20 disability. (1) Subject to the limitation in 39-71-736, a
21 worker is eligible for temporary total disability benefits
22 when the worker suffers a total loss of wages as a result of
23 an injury and until the worker reaches maximum healing.

24 (2) The determination of temporary total disability
25 must be supported by a preponderance of medical evidence.

1 (3) Weekly compensation benefits for injury producing
2 temporary total disability shall be 66 2/3% of the wages
3 received at the time of the injury. The maximum weekly
4 compensation benefits ~~shall~~ may not exceed the state's
5 average weekly wage at the time of injury. Temporary total
6 disability benefits ~~shall~~ must be paid for the duration of
7 the worker's temporary disability. The weekly benefit amount
8 may not be adjusted for cost of living as provided in
9 39-71-702(5).

10 (4) In cases where it is determined that periodic
11 disability benefits granted by the Social Security Act are
12 payable because of the injury, the weekly benefits payable
13 under this section are reduced, but not below zero, by an
14 amount equal, as nearly as practical, to one-half the
15 federal periodic benefits for such week, which amount is to
16 be calculated from the date of the disability social
17 security entitlement.

18 (5) Notwithstanding subsection (3), beginning July 1,
19 1987, through June 30, ~~1989~~ 1991, weekly compensation
20 benefits for temporary total disability may not exceed the
21 state's average weekly wage of \$299 established July 1,
22 1986."

23 **Section 2.** Section 39-71-702, MCA, is amended to read:

24 39-71-702. Compensation for permanent total
25 disability. (1) If a worker is no longer temporarily totally

1 disabled and is unable to return to work due to injury, the
2 worker is eligible for permanent total disability benefits.
3 At an insurer's request, an evaluation of all options under
4 39-71-1012 must be made before permanent total disability
5 status is determined. Permanent total disability benefits
6 must be paid for the duration of the worker's permanent
7 total disability, subject to 39-71-710 and 39-71-1026.

8 (2) The determination of permanent total disability
9 must be supported by a preponderance of medical evidence.

10 (3) Weekly compensation benefits for an injury
11 resulting in permanent total disability shall be $66 \frac{2}{3}\%$ of
12 the wages received at the time of the injury. The maximum
13 weekly compensation benefits shall not exceed the state's
14 average weekly wage at the time of injury.

15 (4) In cases where it is determined that periodic
16 disability benefits granted by the Social Security Act are
17 payable because of the injury, the weekly benefits payable
18 under this section are reduced, but not below zero, by an
19 amount equal, as nearly as practical, to one-half the
20 federal periodic benefits for such week, which amount is to
21 be calculated from the date of the disability social
22 security entitlement.

23 (5) A worker's benefit amount must be adjusted for a
24 cost-of-living increase on the next July 1 after 104 weeks
25 of permanent total disability benefits have been paid and on

1 each succeeding July 1. A worker may not receive more than
2 10 such adjustments. The adjustment must be the percentage
3 increase, if any, in the state's average weekly wage as
4 adopted by the department over the state's average weekly
5 wage adopted for the previous year or 3%, whichever is less.

6 (6) Notwithstanding subsection (3), beginning July 1,
7 1987, through June 30, 1989 1991, the maximum weekly
8 compensation benefits for permanent total disability may not
9 exceed the state's average weekly wage of \$299 established
10 July 1, 1986."

11 **Section 3.** Section 39-71-703, MCA, is amended to read:

12 "39-71-703. Compensation for permanent partial
13 disability -- impairment awards and wage supplements. (1)
14 The benefits available for permanent partial disability are
15 impairment awards and wage supplements. A worker who has
16 reached maximum healing and is not eligible for permanent
17 total disability benefits but who has a medically determined
18 physical restriction as a result of a work-related injury
19 may be eligible for an impairment award and wage supplement
20 benefits as follows:

21 (a) The following procedure must be followed for an
22 impairment award:

23 (i) Each percentage point of impairment is compensated
24 in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages
25 received at the time of the injury, subject to a maximum

1 compensation rate of one-half of the state's average weekly
2 wage at the time of injury.

3 (ii) When a worker reaches maximum healing, an
4 impairment rating is rendered by one or more physicians as
5 provided for in 39-71-711. Impairment benefits are payable
6 beginning the date of maximum healing.

7 (iii) An impairment award may be paid biweekly or in a
8 lump sum, at the discretion of the worker. Lump sums paid
9 for impairments are not subject to the requirements set
10 forth in 39-71-741, except that lump-sum conversions for
11 benefits not accrued may be reduced to present value at the
12 rate set forth by the department in 39-71-741(5).

13 (iv) If a worker becomes eligible for permanent total
14 disability benefits, the insurer may recover any lump-sum
15 advance paid to a claimant for impairment, as set forth in
16 39-71-741(5). Such right of recovery does not apply to
17 lump-sum benefits paid for the period prior to claimant's
18 eligibility for permanent total disability benefits.

19 (v) If a worker suffers additional injury, an
20 impairment award payable for the additional injury must be
21 reduced by the amount of a previous award paid for
22 impairment to the same site on the body.

23 (b) The following procedure must be followed for a
24 wage supplement:

25 (i) A worker must be compensated in weekly benefits

1 equal to 66 2/3% of the difference between the worker's
2 actual wages received at the time of the injury and the
3 wages the worker is qualified to earn in the worker's job
4 pool, subject to a maximum compensation rate of one-half the
5 state's average weekly wage at the time of injury.

6 (ii) Eligibility for wage supplement benefits begins at
7 maximum healing and terminates at the expiration of 500
8 weeks minus the number of weeks for which a worker's
9 impairment award is payable, subject to 39-71-710. A
10 worker's failure to sustain a wage loss compensable under
11 subsection (1)(b)(i) does not extend the period of
12 eligibility. However, if a worker becomes eligible for
13 temporary total disability, permanent total disability, or
14 total rehabilitation benefits after reaching maximum
15 healing, the eligibility period for wage supplement benefits
16 is extended by any period for which a worker is compensated
17 by those benefits after reaching maximum healing.

18 (2) The determination of permanent partial disability
19 must be supported by a preponderance of medical evidence.

20 (3) Notwithstanding subsection (1), beginning July 1,
21 1987, through June 30, ~~1989~~ 1991, the maximum weekly
22 compensation benefits for permanent partial disability may
23 not exceed \$149.50, which is one-half the state's average
24 weekly wage established July 1, 1986."

25 **Section 4.** Section 39-71-704, MCA, is amended to read:

1 "39-71-704. Payment of medical, hospital, and related
2 services -- fee schedules and hospital rates. (1) In
3 addition to the compensation provided by this chapter and as
4 an additional benefit separate and apart from compensation,
5 the following must be furnished:

6 (a) After the happening of the injury, the insurer
7 shall furnish, without limitation as to length of time or
8 dollar amount, reasonable services by a physician or
9 surgeon, reasonable hospital services and medicines when
10 needed, and such other treatment as may be approved by the
11 department for the injuries sustained.

12 (b) The insurer shall replace or repair prescription
13 eyeglasses, prescription contact lenses, prescription
14 hearing aids, and dentures that are damaged or lost as a
15 result of an injury, as defined in 39-71-119, arising out of
16 and in the course of employment.

17 (c) The insurer shall reimburse a worker for
18 reasonable travel expenses incurred in travel to a medical
19 provider for treatment of an injury pursuant to rules
20 adopted by the department. Reimbursement must be at the
21 rates allowed for reimbursement of travel by state
22 employees.

23 (2) A relative value fee schedule for medical,
24 chiropractic, and paramedical services provided for in this
25 chapter, excluding hospital services, must be established

1 annually by the department and become effective in January
2 of each year. The maximum fee schedule must be adopted as a
3 relative value fee schedule of medical, chiropractic, and
4 paramedical services, with unit values to indicate the
5 relative relationship within each grouping of specialties.
6 Medical fees must be based on the median fees as billed to
7 the state fund during the year preceding the adoption of the
8 schedule. The state fund shall report fees billed in the
9 form and at the times required by the department. The
10 department shall adopt rules establishing relative unit
11 values, groups of specialties, the procedures insurers must
12 use to pay for services under the schedule, and the method
13 of determining the median of billed medical fees. These
14 rules must be modeled on the 1974 revision of the 1969
15 California Relative Value Studies.

16 (3) Beginning January 1, 1988, the department shall
17 establish rates for hospital services necessary for the
18 treatment of injured workers. Approved rates must be in
19 effect for a period of 12 months from the date of approval.
20 The department may coordinate this ratesetting function with
21 other public agencies that have similar responsibilities.

22 (4) Notwithstanding subsection (2), beginning January
23 1, 1988, and ending ~~January 1, 1990~~ through December 31,
24 1991, the maximum fees payable by insurers must be limited
25 to the relative value fee schedule established in January

1 1987. Notwithstanding subsection (3), beginning January 1,
 2 1988, through December 31, 1991, the hospital rates payable
 3 by insurers must be limited to those set in January 1988,
 4 ~~until December 31, 1989.~~"

5 **Section 5.** Section 39-71-721, MCA, is amended to read:

6 "39-71-721. Compensation for injury causing death --
 7 limitation. (1) (a) If an injured employee dies and the
 8 injury was the proximate cause of such death, then the
 9 beneficiary of the deceased is entitled to the same
 10 compensation as though the death occurred immediately
 11 following the injury. A beneficiary's eligibility for
 12 benefits commences after the date of death, and the benefit
 13 level is established as set forth in subsection (2).

14 (b) The insurer is entitled to recover any
 15 overpayments or compensation paid in a lump sum to a worker
 16 prior to death but not yet recouped. The insurer shall
 17 recover such payments from the beneficiary's biweekly
 18 payments as provided in 39-71-741(5).

19 (2) To beneficiaries as defined in 39-71-116(2)(a)
 20 through (2)(d), weekly compensation benefits for an injury
 21 causing death are 66 2/3% of the decedent's wages. The
 22 maximum weekly compensation benefit may not exceed the
 23 state's average weekly wage at the time of injury. The
 24 minimum weekly compensation benefit is 50% of the state's
 25 average weekly wage, but in no event may it exceed the

1 decedent's actual wages at the time of his death.

2 (3) To beneficiaries as defined in 39-71-116(2)(e) and
 3 (2)(f), weekly benefits must be paid to the extent of the
 4 dependency at the time of the injury, subject to a maximum
 5 of 66 2/3% of the decedent's wages. The maximum weekly
 6 compensation may not exceed the state's average weekly wage
 7 at the time of injury.

8 (4) If the decedent leaves no beneficiary as defined
 9 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
 10 to the decedent's surviving parent or parents.

11 (5) If any beneficiary of a deceased employee dies,
 12 the right of such beneficiary to compensation under this
 13 chapter ceases. Death benefits must be paid to a surviving
 14 spouse for 500 weeks subsequent to the date of the deceased
 15 employee's death or until the spouse's remarriage, whichever
 16 occurs first. After benefit payments cease to a surviving
 17 spouse, death benefits must be paid to beneficiaries, if
 18 any, as defined in 39-71-116(2)(b) through (2)(d).

19 (6) In all cases, benefits must be paid to
 20 beneficiaries, as defined in 39-71-116(2).

21 (7) Benefits paid under this section may not be
 22 adjusted for cost of living as provided in 39-71-702.

23 (8) Notwithstanding subsections (2) and (3), beginning
 24 July 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly
 25 compensation benefits for injury causing death may not

1 exceed the state's average weekly wage of \$299 established
2 July 1, 1986. Beginning July 1, 1987, through June 30, ~~1989~~
3 1991, the minimum weekly compensation for injury causing
4 death shall be \$149.50, which is 50% of the state's average
5 weekly wage established July 1, 1986, but in no event may it
6 exceed the decedent's actual wages at the time of death."

7 **Section 6.** Section 39-71-1024, MCA, is amended to
8 read:

9 "39-71-1024. Wage supplement and partial
10 rehabilitation benefits. (1) A worker who is in a
11 rehabilitation program under 39-71-1019 in accordance with
12 and for the maximum duration established by a final order of
13 determination by the department is eligible to receive the
14 following benefits:

15 (a) wage supplement benefits as provided in 39-71-703
16 but with the rate based on 66 2/3% of the worker's actual
17 wages received at the time of injury, subject to a maximum
18 of one-half the state's average weekly wage; and

19 (b) a partial rehabilitation benefit that, together
20 with the wage supplement provided in subsection (1)(a),
21 provides the worker with weekly benefits equal to the
22 worker's temporary total disability rate.

23 (2) After the worker completes the rehabilitation
24 program, the worker's further eligibility, if any, for wage
25 supplement benefits under 39-71-703 is reduced by the number

1 of weeks of wage supplement benefits received under
2 subsection (1)(a).

3 (3) Notwithstanding subsection (1)(a), beginning July
4 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly
5 compensation benefit under that subsection may not exceed
6 \$149.50, which is one-half the state's weekly wage
7 established July 1, 1986."

8 **Section 7.** Section 39-71-2501, MCA, is amended to
9 read:

10 "39-71-2501. (Temporary) Definitions. As used in this
11 part, the following definitions apply:

12 (1) "Department" means the department of ~~labor and~~
13 ~~industry provided for in 2-15-1701~~ revenue provided for in
14 2-15-1301.

15 (2) "Employee" has the meaning set forth in 39-71-118.

16 ~~(2)(3)~~ (3) "Employer" has the meaning set forth in
17 39-71-117.

18 ~~(3)(4)~~ (4) "Payroll" means the payroll of an employer for
19 each of the calendar quarters ending March 31, June 30,
20 September 30, and December 31, for all employments covered
21 under 39-71-401.

22 ~~(4)(5)~~ (5) "State fund" means the state compensation
23 mutual insurance fund.

24 ~~(5)(6)~~ (6) "Tax" means the workers' compensation payroll
25 and wage tax provided for in 39-71-2503.

1 ~~(6)~~(7) "Tax account" means the workers' compensation
2 payroll and wage tax account created by 39-71-2504.

3 (8) "Wages" has the meaning set forth in 39-71-123.
4 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

5 **Section 8.** Section 39-71-2502, MCA, is amended to
6 read:

7 "39-71-2502. (Temporary) Findings and purpose. (1)
8 Based on current liabilities and actuarial analysis, an
9 unfunded liability presently exists in the state fund and is
10 projected to increase. While legislative action is required
11 to correct the causes of the unfunded liability, those
12 actions will not provide sufficient funds to permit the
13 state fund to pay its existing liabilities and obligations
14 in a timely manner from premium and investment income
15 available to the state fund. Therefore, it is necessary to
16 provide ~~a-source~~ other sources of funding for the unfunded
17 liability in addition to premium and investment income.

18 (2) The police power of the state extends to all great
19 public needs. The state, in the exercise of its police
20 power, has determined that it is greatly and immediately
21 necessary to the public welfare to make workers'
22 compensation insurance available to all employers through
23 the state fund as the insurer of last resort. In making this
24 insurance available, the state fund has incurred the
25 unfunded liability described in subsection (1). The burden

1 of this unfunded liability should not be borne solely by
2 those employers who have insured with the state fund because
3 the availability of insurance to all employers through the
4 state fund has benefited all employers who have workers'
5 compensation coverage, nor should this unfunded liability be
6 borne by employers only. Therefore, all employers ~~who--have~~
7 employments and employees covered by the workers'
8 compensation laws should share in the cost of the unfunded
9 liability.

10 (3) The purpose of this part is to provide a
11 supplemental ~~source~~ sources of financing for the unfunded
12 liability. (Terminates June 30, 1991--sec. 10, Ch. 664, L.
13 1987.)"

14 **Section 9.** Section 39-71-2503, MCA, is amended to
15 read:

16 "39-71-2503. (Temporary) Workers' compensation payroll
17 and wage tax -- penalty. (1) (a) There is a workers'
18 compensation payroll and wage tax. The tax must be imposed
19 on:

20 (i) each employer ~~a-workers'-compensation-payroll-tax~~
21 in an amount equal to 0.3% of the employer's payroll in the
22 preceding calendar quarter for all employments covered under
23 39-71-401; and

24 (ii) each employee in an amount equal to 0.3% of the
25 employee's wages in the preceding calendar quarter for all

1 employments covered under 39-71-401.

2 (b) For the purpose of this tax, a sole proprietor
3 shall pay only the employer's payroll tax on his own
4 employment.

5 (2) This--payroll The tax must be used to reduce the
6 unfunded liability in the state fund.

7 (b)(3) The tax is due and payable 30 days following
8 the end of each calendar quarter,--commencing--with--the
9 quarter--ending--September--30--1987.

10 (c)(4) The tax must be paid to and collected by the
11 department. The department shall prepare appropriate returns
12 to be filed by each employer or insurer with the payment of
13 the tax. Each employer shall withhold from an employee's
14 wages the wage tax provided for in subsection (1)(a)(ii) and
15 pay it to the department.

16 (d)(5) Each employer shall maintain the records the
17 department requires concerning the employer's payroll. The
18 records are subject to inspection by the department and its
19 employees and agents during regular business hours.

20 (e)(6) Taxes not paid when due bear interest at the
21 rate of 1% a month. The employer shall also pay a penalty
22 equal to 10% of the amount of the delinquent tax.

23 (f)(7) All collections of the tax are appropriated to
24 and must be deposited as received in the tax account. The
25 tax is in addition to any other tax or fee assessed against

1 employers and employees subject to the tax.

2 (3)(8) Sections 15-35-112 through 15-35-114,
3 15-35-121, and 15-35-122 regarding deficiency assessments,
4 credits for overpayment, statute of limitations, penalties,
5 and department rulemaking authority apply to the tax, to
6 employers and employees, and to the department. (Terminates
7 June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

8 **Section 10.** Section 39-71-2504, MCA, is amended to
9 read:

10 "39-71-2504. (Temporary) Workers' compensation payroll
11 and wage tax account. There is an a workers' compensation
12 payroll and wage tax account in the state special revenue
13 fund. All collections of the tax and interest and penalties
14 on the tax must be deposited in the account and are
15 statutorily appropriated, as provided in 17-7-502, to the
16 department to be used to reduce the unfunded liability in
17 the state fund. (Terminates June 30, 1991--sec. 10, Ch.
18 664, L. 1987.)"

19 **NEW SECTION. Section 11.** Construction of law. Nothing
20 in 39-71-2501 through 39-71-2504 may be construed to
21 conflict with the provisions of 39-71-406.

22 **NEW SECTION. Section 12.** Severability. If a part of
23 [this act] is invalid, all valid parts that are severable
24 from the invalid part remain in effect. If a part of [this
25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are
2 severable from the invalid applications.

3 NEW SECTION. **Section 13.** Retroactive applicability.
4 [Section 9] applies retroactively, within the meaning of
5 1-2-109, to all employee wages earned on or after July 1,
6 1989.

7 NEW SECTION. **Section 14.** Effective date. [This act],
8 section 57, Chapter 83, Laws of 1989, and section 23,
9 Chapter 613, Laws of 1989, are effective on passage and
10 approval of [this act].

11 NEW SECTION. **Section 15.** Termination. [Section 11]
12 terminates June 30, 1991.

-End-

In compliance with a written request, there is hereby submitted a Fiscal Note for HB56, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise the workers' compensation act to continue the freeze on maximum weekly compensation benefits payable by an insurer; to extend the period for which a freeze is imposed on the maximum fee schedule for medical, hospital, and related services; to impose a 0.3 percent tax on employee wages, in addition to the current employer payroll tax, to reduce the unfunded liability in the state compensation mutual insurance fund; and providing an immediate effective date, a termination date and a retroactive applicability date.

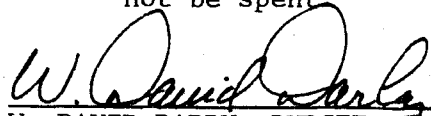
ASSUMPTIONS:

Department of Revenue:

1. Total payroll and wages subject to the employers' payroll tax and the employees' wage tax are estimated to be \$4,239,160,573 in FY90, and \$4,281,552,179 in FY91 (Workers's Compensation Division - Legislative Auditor's Report).
2. The employers' payroll tax of 0.3% will be in effect during all of the coming biennium; the employees' wage tax 0.3% will take effect July 1, 1989.
3. Additional administrative expenditures necessary to implement, maintain, and monitor the payroll and wage tax are estimated to be \$441,510 in FY90, and \$258,771 in FY91.
4. employers would file one report for both employer withholding and the Workers' Compensation Payroll Tax.
5. there are approximately 40,000 employers subject to the payroll tax and approximately 22,000 employers registered for withholding. Therefore, approximately 18,000 new filers will be added to the department's existing workload.

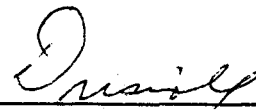
Division of Workers' Compensation:

1. The continuation of the freeze on maximum compensation benefit rates and the medical fee schedule will have a minimal impact on State Compensation Insurance Fund (SCIF) operational budget and a minimal impact on the Insurance Compliance (Department) operational budget.
2. These freeze continuations will reduce the FY90 rate increase of \$19.9 million by \$3.1 million.
3. The revenue from the 0.3% tax on employee wages will be considered in the present plan to retire the unfunded liability in 10 years (8 remaining) and will be used in calculating FY90 SCIF premium rates.
4. The employee tax will generate \$12.075 million dollars for FY90.
5. FY90 premium rates will be adjusted for past experience (both increases and decreases considered) and a factor applied to meet the \$19.9 million rate deficiency. The remaining rate increase would be \$7.262 million or 8.2%.
6. The Department of Revenue will collect the employer and employee tax; therefore, the operational costs appropriated to the Division of Workers' Compensation by the regular session of the 1989 Legislature will not be spent



DATE 7/1/89

W. DAVID DARBY, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE

7-5-89

JERRY L. DIRSCOLL, PRIMARY SPONSOR

Fiscal Note for HB56, as introduced

HB 56

State Auditor's Office:

1. The Payroll/Personnel/Position Control computer system will be modified to include a new deduction.
2. Costs will only be incurred in the first year of the biennium.
3. Rates were obtained from Systems Development Bureau Information Services Division, Department of Administration, for FY90.

Commissioner of Higher Education:

1. Assume central payroll will handle this deduction for the Commissioner of Higher Education and the Vo Techs.
2. One time programming costs in FY90 for the University Units as follows:
University of Montana \$8,260
Montana State University 5,520
Eastern Montana College 500
Montana Tech 500
Western Montana College 100

FISCAL IMPACT:

Department of Revenue

Revenue Impact:

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
Workers' Compensation Fund						
- Payroll Tax	\$12,717,482	\$12,717,482	\$ 0	\$12,844,657	\$12,844,657	\$ 0
- Wage Tax	0	9,538,111	9,538,111	0	12,844,657	12,844,657
Total	\$12,717,482	\$22,255,593	\$9,538,111	\$12,844,647	\$25,689,314	\$12,844,657

Expenditures Impact:(State Special Revenue)

Personal						
Services	\$ 0	\$ 262,867	\$ 262,867	\$ 0	\$ 179,511	\$ 179,511
Operating						
Expenses	0	129,953	129,953	0	79,260	79,260
Equipment	0	48,690	48,690	0	0	0
Total	\$ 0	\$ 441,510	\$ 441,510	\$ 0	\$ 258,771	\$ 258,771

Division of Workers' Compensation (State Special Revenue)

	<u>Current Law</u>	<u>FY90 Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY91 Proposed Law</u>	<u>Difference</u>
Expenditures	\$10,053,125	\$9,988,004	(\$65,121)	\$9,801,873	\$9,736,964	(\$64,909)

Revenue Impact:

The additional \$9.538 million revenue generated, plus the \$3.1 million dollar freeze continuation, will reduce the needed rate increase to \$7.262 million, or 8.2%.

State Auditor's Office (State Special Revenue)

		<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>		<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expenditures:	\$ 0	\$6,100	\$6,100		\$ 0	\$ 0	\$ 0

Commissioner of Higher Education (General Fund)

		<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>		<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expenditures	\$ 0	\$14,880	\$14,880		\$ 0	\$ 0	\$ 0

EFFECT ON LOCAL GOVERNMENT:

County or local government entities may incur additional expenditures in withholding the employee tax.

TECHNICAL NOTES:

Department of Revenue

1. The immediate effective date and proposed retroactive applicability date of July 1, 1989 does not allow sufficient time to administer the proposal. A more appropriate date would be January 1, 1990.
2. The proposal provides that sole proprietors shall pay only the employer's payroll tax on their own employment. This language should be extended to apply to members of partnerships as well.
3. The existing statute could be repealed in its entirety and reenacted under Title 15, Chapter 30, Part 2 for Department of Revenue administrative purposes.

Division of Workers' Compensation

1. The Workers' Compensation Division is required to give 30 days notice to employers of a rate change. In order to implement these changes July 1, 1989, MCA, 39-71-2304 would need to be amended.
2. Because the Division of Workers' Compensation is presently collecting the .3% payroll tax on employers, and because it will the employer's responsibility to collect the .3% employee tax, the Division believes it would be more cost beneficial to continue the tax rather than transfer it to the Department of Revenue. Unless it was necessary to account for the employee and employer tax separately, the computer system presently in place could continue to be used.

State Auditor's Office

1. As this bill has an applicability date of July 1, 1989, it is impossible for the Payroll/Position Control/Personnel System to be modified in time to implement the provisions of this bill. As estimated by the Systems Development Bureau, Information Services Division, Department of Administration, it would take at least 112 hours to modify the computer system.

HB 56

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MINUTES

MONTANA SENATE
51st LEGISLATURE - SPECIAL SESSION

COMMITTEE ON LABOR

Call to Order: By Co-Chairman Gary C. Aklestad, on June 27, 1989, at 1:00 p.m., Room 312-2, Capitol

ROLL CALL

House Members Present: Representative Vicki Cocchiarella, Representative Duane Compton, Representative Jerry Driscoll, Representative Bill Glaser, Representative Tom Kilpatrick, Representative Thomas Lee, Representative Mark O'Keefe, Representative Robert Pavlovich, Representative Richard Simpkins, Representative Carolyn Squires, Representative Fred Thomas, Representative Timothy Whalen, Representative McCormick, Representative Jim Rice, Representative Angela Russell

Senate Members Present: Senator Tom Keating, Senator Sam Hofman, Senator J. D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Chet Blaylock, Senator Gary Aklestad

Members Excused: Representative Jim Rice, Representative Clyde Smith

Members Absent: None

Staff Present: Tom Gomez

Announcements/Discussion:

Co-Chairman Aklestad announced that he and Chairman Russell will co-chair the meeting, and that they will establish a few ground rules. He indicated that, for HB56, 30 minutes will be allowed for the proponents, 30 minutes for the opponents, and no more than 30 minutes for questions from the committee members. He reported that Chairman Russell has several other bills before her committee which will either be heard before they go into session, or after, noting that HB54 deals with the employer tax and, if there is time before they go into session at 3:00, he would suggest the Senate committee stay in joint hearing for that particular bill. He added that the other bills to be heard by Chairman Russell's

committee will be HB57, HB58 and HB60, which deal with taxation measures, and indicated he is not sure they will be assigned to the Senator Labor Committee, at this time.

Senator Blaylock asked Chairman Aklestad if he has allowed 30 minutes for the proponents and the opponents, apiece, and 30 minutes for questions. Chairman Aklestad responded yes, if they need that much time. Senator Blaylock suggested that, in the questioning period, they limit the questions to one per person, until everyone gets to ask a question, rather than having a series from one member, which will eat up all the time. Chairman Aklestad indicated that, if Chairman Russell concurs, they can do that. Chairman Russell concurred.

HEARING ON HB 56

Presentation and Opening Statement by Sponsor:

Representative Jerry Driscoll reported that Senator Lynch says it is the worst bill he has ever seen, and stated that he probably agrees, but it is probably necessary. He indicated that, during the regular session, they were told the workers comp fund was \$157 million in debt, or unfunded liability, and that it is presently, by actuary standards, \$215 million. He pointed out that there will be a 22% rate increase on July 1st, that the notice has already been sent to the employers, which is across the board, noting that other employers, depending on their class code, will get a change from that, which could be up or down.

Representative Driscoll noted that there are lots of ideas floating around for other funding sources, which may or may not be okay, depending on how you look at it. He asked, if the rates are raised 22%, will there be any jobs left. He pointed out that a lot of people are worried about personal property tax, in this special session, but, for the majority of employers in this state, that is very few dollars, that most people with large personal property taxes are also self-insurers and do not have to pay these rates. He indicated the issue is, do they raise some money and subsidize rates, and compete with other states, noting that Wyoming puts resource taxes into their's, and Idaho subsidizes by having the low-end, low-risk employers pay artificially high rates to subsidize the higher risk industries. He pointed out that, if Montana is going to compete against those states, we will

have to do the same thing, or have this problem forever, until they change.

He reported that he fought the three-tenths on employees, during the regular session, indicating that, at that time, they were told the unfunded liability was headed down, but it is going up and, if a 22% raise is put on the employer, jobs will be lost. He pointed out that the freeze on medical and benefits in this bill saves in the neighborhood of \$3 million, that the tax on employees brings in \$12 million, but that they are still short, so he is proposing an amendment which would appropriate \$10 million out of the general fund for workers comp, which would stop any raises July 1st, and probably stop raises July 1st of 1990.

List of Testifying Proponents and What Group they Represent:

Mike Micone, Commissioner, Department of Labor and Industry
Representative Bob Marks
Representative Lum Owens
Bill Olson, Montana Contractors Association
Carol Daly, Executive Director, Flathead Valley Economic Development Corporation; private businesswoman, representing herself
Ben Havdahl, Montana Motor Carriers Association
Jim Tutwiler, Montana Chamber of Commerce
Kathy Kirsch, private businesswoman, representing herself
Bonnie Tippy, Montana Innkeepers Association
Senator Paul Rapp-Svrcek
Senator Jerry Noble, Jerry Noble Tires
Charles Brooks, Executive Vice President, Montana Retail Association; Montana Hardware Association; Montana Tire Dealers Association
Senator Gene Thayer
Representative Ole Aafedt, Travel Time RV's

Testimony:

Mr. Micone indicated it would be easy for anyone to stand before the committee and oppose imposition of a tax, that no tax is popular, but they certainly do not like the idea of a new tax being imposed upon, not only employees, but employers of the State of Montana.

Mr. Micone's written testimony is attached as Exhibit 1.

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Testimony:

Representative Marks indicated he would like to mention some things which have not been touched on in the discussion thus far. He pointed out that, if nothing is done between now and a few days from now, these new rates will take effect. He indicated that a double-digit increase to the tune of 20 some percent, on the average, will further deteriorate the market share that the state fund has, noting that, if those are priced higher than they are now, by 20 some percent, they expect the market share to deteriorate, which will have a compounding negative effect on the fund.

Representative Marks stated that he was not a strong proponent of putting a payroll tax on the employer, at the time it was passed but, looking back, he feels the Legislature probably did what needed to be done because this issue is becoming of great concern to not just employers, but employees, noting that employees are the recipients of the act, as well as holding harmless the employer, which is kind of a trade. He indicated that he would hope the committee would be able to pass this bill out, that he thinks, to the average person on the street, business people, and the employees who work for those business people whose businesses are in trouble, this is an even more important issue than the main one they came here to address, which is school funding, noting that it is a very inflammatory issue, very visible issue, and he would hope the committee would pass this out. He added that he has Representative Driscoll's amendments, and thinks the committee should do whatever it has to do get this bill out of committee.

Testimony:

Representative Owens reported that he has been involved in the work comp thing, and it has some real problems. He indicated that, if he wants to pay a guy \$1,000 today, it will cost him \$1,600 to write that check, and they have to get a better way to help themselves. He indicated that one of the ways is to put this tax on the employees, noting that he thinks a by-product of this tax is, when someone hurts their back on Sunday, the guy working along side of him may remember that he hurt his back on Sunday, instead of Monday, and they may not see so many claims. He further indicated he thinks it may draw all the people together, with all the problems in this state, because we just can not have a healthy economy, when work comp rules are like they are.

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He reported that Butte got a tax break for a new industry, and he told them that is good, that he would vote for it forever, but asked what is that new industry going to say, when they take a look at the work comp rates.

Testimony:

Mr. Olson stated that they urge the committee's support of HB56. He indicated the problem has to be addressed, and that it seems like this is a viable bill to do that.

Testimony:

Ms. Daly indicated that, both as an economic developer, and a private business person, she would very much like to encourage the committee to pass this bill. She reported that, as an economic developer, one of the questions they deal with constantly from businesses looking to locate in Montana, or expanding in Montana, is the workers compensation rates. She stated that she thinks there is also some concern, on the part of the workers, about the problems they have encountered, and which were alluded to a few moments ago, in terms of abuse of the program. She further stated that she thinks there is conscienceness and concern, and willingness to share in this endeavor to bring this down into reasonable limits, so that there will be better jobs for people, more jobs for people, and higher wage jobs for people.

Testimony:

Mr. Havdahl indicated that the trucking industry in Montana is particularly vulnerable to the high cost of workers compensation. He reported that, during the regular session, they testified before both of these committees, separately, on several issues dealing with the workers compensation matter, and pointed out the negative impact the high cost of workers compensation has on the trucking industry in Montana. He indicated that the trucking industry is a mobile industry, that several trucking companies have considered, that some have actually moved out of Montana, and others have re-employed drivers in corporations from outside of the state in their desperation efforts to try to curb the cost. He stated that Montana truckers are attempting to compete with the surrounding states, all of which have lower costs for workers compensation than Montana, and that sometimes the difference between staying in business, making a profit, and competing with the trucking industry from other states, is represented

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by the high cost of workers compensation insurance. He reported that the current rate for truckers in Montana is 16.59%, and that, July 1, that is slated to go up to 18%, which will compound the problem.

He indicated that the passage of HB56 will preclude a major increase in that rate, and that they commend the committee for taking this action.

Testimony:

Mr. Tutwiler indicated that, in the general session, they supported, reluctantly, a similar bill to tax employees, and that they do so again today, with the understanding that such taxation would help resolve a problem and will, hopefully, be temporary in nature.

Mr. Tutwiler then indicated that, in their concern over the workers compensation issue, and reflecting the concern among businesses around the state, they have tried to see how this problem is being handled in other states. He reported that at least one observation is clear, that states which have had some success in workers compensation, in that they do not have a large unresolved or unfinanced deficit and are operating in the black, appear to have either one of two characteristics. He indicated they are either subsidizing their workers compensation programs through other revenue sources, citing, as an example, Wyoming uses massive amounts of severance taxes on minerals, and another approach, which seems to be working, is that some states, by whatever means, have been able to amass considerable investments in an investment portfolio, stocks and bonds, which is used to help defray the operating costs of their respective workers compensation programs.

He indicated that it would seem apparent, even to those who are not fully cognizant of all the details of the actuarial business, that, when a segment of the economy such as medical services is inflating at three to four times the rate of general inflation, there will be constant problems with trying to fund the workers compensation program unless some other source of revenue is found.

Testimony:

Ms. Kirsch indicated the reason she is here is to tell the committee that they have to do something about workers comp rates, that a 22% increase on her business is just about the

straw that will break the camel's back. She reported she only has ten employees, which is no biggie to the committee members because they are talking 200, but there are a lot of businesses in this state who have only ten employees and, if workers comp keeps increasing, they are not going to be here. She indicated that, if they want to put a small percent tax on employees, she will have to collect it, that she is willing to do that, and that employees will pay attention to what they are doing in the work place, also.

She referred to the comment regarding people getting hurt on Sunday and collecting on Monday, and reported that she lives in the little town of Boulder, and sees a lot of that. She indicated that all she wants the committee members to do is consider that they are not talking 200 people, they are talking ten jobs, in her case, adding that they are actually talking more jobs because she can go out of business, and take a job away from somebody else, that she can find another job, but the ten jobs she has created will be lost.

Testimony:

Ms. Tippy reported that their association represents approximately 8,500 hotel and motel rooms in Montana, and they wish to go on record as being in support of this bill. She stated that perhaps there will be an advantage to such a piece of legislation, that perhaps some employees will feel it is not just their boss's plan, or their boss's responsibility, but will take some amount of ownership into the workers compensation plan, which is for them, and maybe help prevent some abuses, or help employees and employers work together to solve this problem which affects every single person in Montana. She stated that they ask the committee to seriously consider adoption of this bill.

Testimony:

Senator Paul Rapp-Svrcek stated that he appears in support of this bill, noting that it is certainly a bitter pill for him to swallow to support this bill, but that he is here to tell the committee that this problem is real, they can not sweep it under the rug any longer, that it is not going to go away until they address it, not only with this bill, but with several other bills which are going to come before this Legislature in the next couple of days. He indicated he is sure they all have horror stories about employers who are bailing out of Montana because they can no longer afford to

pay the work comp rates in this state, pointing out that, in his district, the problem is particularly bad because they border Idaho, and it is relatively easy for employers to transfer their operations, taking 30, 40, 50 jobs with them, or just leave the jobs lay here in Montana.

He stated that he does not like having to support this legislation, but thinks they have reached the point where it is not a problem for the employers, it is not a problem for state government, it is not a problem for Democrats, and is not a problem for Republicans, that it is a problem for Montana. He added that everybody in Montana has to pitch in, that, the sooner we pitch in and the more comprehensively we pitch in, not only with this bill but with the other bills, the faster we can take care of this problem, the faster we can reduce the rates, and the faster we can bring this work comp problem under control. He indicated that he thinks they need to do that, that he thinks the time is now, and he hopes the committee members will pass this bill out of committee.

Testimony:

Senator Noble reported that he represents Jerry Noble Tires, which employs about 50 people around the state, that their increase will mean about \$40,000 a year, which used to be net profit, and there is not going to be a lot left. He indicated that, pretty soon, the little businesses will, like him, say "What is the use?", noting that he is telling it truthfully, and added that, if the increase goes into effect, it will be absolutely devastating to his business.

Testimony:

Mr. Brooks reported that they represent a number of small businesses throughout Montana, over 1,000, that they would like to go on record in support of this legislation, and urge the committee's thoughtful consideration to give it a do pass to the floor for debate.

Testimony:

Senator Thayer indicated that, before he came down here, he had a lot of calls about the problems with workers comp, after employers began getting their proposed rate increases, that he had a lot more calls about that than about the education

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problem. He stated that, if the committee does not pass this bill, they have two choices, one of which is to let the 22% increase go in, which will mean some employers will get 80% and 90% increases, noting that a few will get decreases but that, in the overall, it amounts to a 22% increase, which he thinks that is untenable, and is something which just can not happen, that should not happen. He indicated that the only other choice they have is to reduce benefits, which he does not think any of us want to do. He stated that this is the most reasonable proposal, and urged the committee to adopt this bill.

Testimony:

Representative Aafedt reported that he only has nine employees, but that the difference in his workers comp will be a big difference in net profit, and he prays that the committee will pass this bill.

List of Testifying Opponents and What Group They Represent:

Senator J. D. Lynch
Senator Bob Pipinich
Don Judge, Montana State AFL-CIO
Mike Sherwood, Montana Trial Lawyers Association
Robert Culp, Safety Chairman, Local 885, United Paperworkers International Union
Tom Schneider, Montana Public Employees Association
James Hill, Area Representative, Western Council of Industrial Workers, Portland, Oregon
Jay Reardon, President, United States Steel Workers, Local 72; President, Helena Trades and Labor Council
Tom Bilodeau, Research Director, Montana Education Association
Terry Minow, Montana Federation of Teachers; Montana Federation of State Employees
Darrell Holzer, President, Plumbers and Pipefitters Local Union No. 30
Len Blancher, Assistant Business Manager, Operating Engineers Local 400

Testimony:

Senator Lynch stated that he rises in opposition to HB56, that he thought it was the worst bill he had seen, when they were looking at 1,500 or 1,600 bills in the regular session, and it is certainly the worst bill of 80 or so they are looking

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at in the special session. He added that he reluctantly opposes the bill, that he thinks it is probably a first for him to oppose a bill sponsored by his friend Representative Driscoll. He pointed out that he realizes Representative Driscoll's plight, but he thinks there are other ways to accomplish it for the short-term, which is what they are talking about, rather than to give it to the employee one more time.

He reported that he heard and opposed, noting he is glad he did now that he sees what they are doing today, the so-called compromise bill, SB315, where they were assured that, if they would ding the employees just one more time, the problem would go away. He indicated they did a great job, they took away benefits, noting he remembers the one provision he particularly liked is that they made sure the widows got it, too, that they only got ten years instead of life on their benefits, but it was going to solve the problems of workers comp.

Senator Lynch asked if they have forgotten what workers comp is and why it was set up, and pointed out that it was set up for one thing, to protect the employer, noting that it was not set up out of benevolence of the employer, that the Republican legislators started workers comp years ago, and it was set up to protect businessmen from losing their businesses to unsafe working conditions, that it was to protect the employer, not the employee. He indicated that, if he represented employers, he certainly would be in favor of the Legislature helping him pay his insurance bill, adding that, if there was a bill up that the employee had to pay all of the employer's insurance, some would think that would be a pretty good idea, also.

Senator Lynch referred to the suggestion that the employee is the only abuser of the workers compensation program and submitted that, if every employer who should be paying would be paying, the problem would be far less. He then indicated that they are told another solution would be SB315, and he understands from Mr. Micone that, if given enough time, the spiral will start going down, but the immediate problem is cash-flow, that, if he understands the bill, they are talking in the area of \$12 million, and this would do it. He suggested that the rainy day is, in fact, here and, if there is a bill by Senator Crippen which is asking for \$56 million, the appropriate thing to do is take \$12 million of that to solve this immediate cash-flow problem.

He indicated he would love to go back home to his district in Warm Springs, and tell them they got a 2.5% increase, but, by

the way, the special session, which is to address problems with school funding, has taken three tenths of that percent away, right off the bat, because employees should be paying for the employer's insurance policy. He stated that it is not right then, it is not right now, and he hopes the committee defeats the bill.

Testimony:

Senator Pipinich indicated that, as Senator Lynch said, Senator Crippen's bill, SB14, is coming up, which is the building bill for all the university systems and will raise \$56 million. He indicated that, instead of putting any more tax, instead of trying to get three tenths of one percent for a one-time shot deal, he will propose an amendment that they put \$15 million of that money in this workers compensation bill, that no other tax be made, and nothing else done.

Testimony:

Mr. Judge's written testimony is attached as Exhibit 2.

Testimony:

Mr. Sherwood stated that, as Mr. Judge indicated, there is a serious constitutional problem with opposing a payroll tax on employees. He cited Article II, Section 16, which specifically says that the common law rights of someone to sue, when hurt due to the negligence of another, are abrogated under a workers compensation situation when the immediate employer who hired that person provides the coverage for workers compensation. He pointed out that, now, the employee is being asked to provide that. He added that, along with the constitutional problem, there is a potential conflict in the statutes, noting it has been the policy of this Legislature to make sure employers do not do what this bill proposes to be done, which is take money from the laborers to pay workers compensation premiums. He indicated that, specifically, Section 39-71-406 provides that it is unlawful for the employer to deduct or to obtain any part of any premium required to be paid by this chapter from the wages or earnings of his workers, and that the making or attempt to do so is a crime.

Mr. Sherwood pointed out that the focus seems to have been on the .3%, that two proponents said this is a better suggestion than reducing benefits, noting that benefits are being reduced, if only passably in this case, but radically. He

stated that a freeze at the 1986 level of \$299, by 1991 will represent somewhere around a 25% to 30% reduction, with a 5% cost of living, a 30% reduction in what someone is going to be effectively receiving by 1991 to support a family. He indicated that, looking at double-digit inflation, with medical expenses, a freeze at the 1988 rates, by 1991, is going to be somewhere around a 30% reduction in medicals. He continued that, while that has played a back-burner role in the discussion today, it is critical to the people who are living on the edge, now. He reported that he is in a boy scout troop, in which a gentleman in a full back brace has a child. He indicated that, ignoring the pain he is in, the committee members have to recognize how he feels when he comes to the troop, and says he does not have \$8 for his child for the campout, noting he will not have it for three more years, if this continues.

Mr. Sherwood asked the committee to please seriously consider the passive reduction that is going on, as well as some other means for funding the short-term problem in workers comp.

Testimony:

Mr. Culp's written testimony is attached as Exhibit 3.

Testimony:

Mr. Schneider stated that they are strongly opposed to this, for obvious reasons. He indicated he is sure the committee members know that salary increases granted for state employees this year are minimal at best, that they have just come off a two-year wage freeze, and all they are doing is taking a big chunk of that to put in the workers comp fund.

Mr. Schneider reported that, on the other side, he is a private employer, that he employs nine people, and it looks to him like he will have to tell his people he is taking three-tenths of a percent out of their wages, and giving them the right to sue him, noting he is not sure he wants to do that, that he thinks he would just as soon pay the three-tenths, and keep the right that they can not sue him. He stated that he takes exception when people talk about their rate going up 22%, because he does not think everybody's rate is going up 22%, that his rate is not going up 22%. He indicated that everybody in the state will be subsidizing the high accident/injury people in Montana, who will continue to have their accidents, and that others will pay for it. He added that maybe that is a deterrent to business in this state, but they are also being given a reward, that they are

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COMMITTEE ON LABOR

June 27, 1989

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being rewarded by making everybody pay for them not enforcing safety standards.

Mr. Schneider then indicated he takes exception to the comments about the accidents on Sunday, and the workers comp claims on Monday, reporting that he has been in business for thirty years, that he has never had an employee file a claim on Monday morning, and does not think it is just for people to say that unless they can prove it. He stated that he thinks it is a bad bill, that they resist the bill, and he thinks it is the wrong direction to go.

Testimony:

Mr. Hill's written testimony is attached as Exhibit 4.

Discussion:

Chairman Russell indicated that there are five minutes left, and asked the remaining opponents to raise their hands. She then asked those individuals to line up, and at least give their name and one brief statement.

Testimony:

Mr. Reardon's written testimony is attached as Exhibit 5. He distributed copies of a letter, a copy of which is attached as Exhibit 6.

Testimony:

Mr. Bilodeau noted that Senator Lynch stated the issue very clearly, that this bill violates the trust agreement between workers and management. He indicated that worker safety and the cost of workers compensation will not be solved by passing the cost on to the injured and to the working, and asked that the committee please do not pass.

Testimony:

Ms. Minow stated they also rise in strong opposition to HB56. She reported that state employees have come off two years of wage freezes, that the Legislature granted a 2.5% increase and, if they take away .3% of that with this bill, that would be adding insult to injury, noting that school district

employees, and employees of local governments, are in the same situation, facing Initiative 105 and inadequate funding. She stated that they ask the committee to give this bill a do not pass recommendation, that they recommend an independent audit of the workers compensation situation, and, if they need to address the situation right now, perhaps accelerating corporate and income tax payments would be a solution.

Testimony:

Mr. Holzer's written testimony is attached as Exhibit 7.

Testimony:

Mr. Blancher's written testimony is attached as Exhibit 8.

Questions From Committee Members:

Chairman Russell reminded the committee members that each Representative and Senator can have one question.

- Q. Representative Kilpatrick indicated they are getting a lot of disagreement, different facts, and things like that, and asked if the Legislative Auditors' office believes the Workers Compensation Division will have a cash-flow problem, and will be unable to pay benefits and providers, if no rate increase is implemented this July 1st, or if no other form of rate subsidy is provided.
- A. Ms. Julie Barr, Legislative Auditors office, responded that they are fairly comfortable that, with a rate increase, there would not be a cash-flow problem, but are not quite as comfortable with a no rate increase if there will be a cash-flow problem. She indicated they have some questions, but the actuary is on vacation, and they have not been able to get together with him to answer some of their questions, so they are not as comfortable, there.
- Q. Representative Kilpatrick asked if, in other words, he can not pin them down to, if there is no raise, will there be a cash-flow problem.
- A. Ms. Barr responded that she can not say that there will or will not be.
- Q. Representative Kilpatrick asked if she is questioning it, though.

- A. Ms. Barr responded she is questioning it, yes.
- Q. Representative Thomas asked Mr. Micone to respond to the same question, noting he thinks it would only be assumed they would ask the department.
- A. Mr. Micone responded that their analysis of the cash-flow, with no rate increase, indicates the state fund will run out of cash during the fiscal year 1991, after July 1, 1990.
- Q. Senator Hofman reported that he sat in on a hearing, last winter during the regular session, and they were told that everything was going fine in workers comp, that the unfunded liability would decrease by \$12 million, and would be paid off by 1997, even if nothing was done. He noted all of these things were nice to hear, and they believed every word, but that, now, they find out things are much different, much worse. He asked Mr. Micone if he has any explanations as to where the mistakes were made in analyzing the problem at that time.
- A. Mr. Micone responded that he has appeared before committees and talked in terms that SB315 was starting to show results, that they have had good experience with the mediation process, and firmly believed at that time, and still believe that SB315 is going to prove successful. He pointed out that they can not control the escalating costs in workers compensation, that the older those claims get, the more costly they get. He stated that he does not recall, if they want to separate the operations from the unfunded liability, that any of them came before the Legislature and stated that there would never be an increase in rates.
- Q. Senator Manning asked how many employers in Montana, who should be covered by some sort of insurance, are not covered, today, and why not.
- A. Mr. Micone responded that he can not answer that question, and indicated it was enlightening to him, when the discussion came up about rate increases and the problem with the horseman, that there were approximately 80% who were not in compliance, noting that he does not know if that means 80% were not paying at all, or were not paying the right amount. He indicated he can tell Senator Manning, and make a guarantee, that it is his intention, by the time those functions come under his

responsibility, that they will have a concerted effort, not only to insure employers are complying and paying their insurance premiums, but to intensify their efforts to insure there is no fraud in the system, both from faulty claims from workers and faulty claims from providers. He stated that will be their number one priority, as far as the department is concerned.

Q. Chairman Russell indicated they seem to be getting different numbers on the unfunded liability and cash reserves, and asked Mr. Micone if he and the auditor's office can work together to come up with one common set of figures, and how close are they to possibly getting there.

A. Mr. Micone asked permission for Mr. Murphy from the state fund to address that, noting that he may have given some wrong information earlier, too.

Mr. Jim Murphy responded that the figures Chairman Russell is referring to are cash-flow projections, that the unfunded liability is established by the actuary, and he does not think there is any disagreement as to what that figure is, as of the moment he looked at it. He indicated the problem they are having with the cash-flow is getting the actuary and the Legislative Auditor's office to agree as to what they think the pay-out pattern is going to be, as he understands it. He reported that the only cash analysis they did, leaving everything as is with employer taxes already in place and no rate increase, over fiscal year 1990, would indicate they would draw-down about \$9 million in investments. He noted that, the minute they start doing that, the amount of interest they will earn in the out years will be less, because their investments will come down. He indicated he does not know of any cash projection spread out through 1995 which anybody wants to stand up and tell the committee is right or wrong.

Q. Senator Lynch pointed out that the employee has given up his right to sue, which is how workers comp is set up, that they are covered and can not sue for additional money for losses. He added that it must be provided by the employer but that, now, it is going to be provided partially by the employee, and the employee now has the right to sue.

A. Representative Driscoll responded that he does not know, but that, when the first one happens, there will be a

case, and they will find out. He indicated the exclusive remedy is the concern of a lot of people and, although the bill addresses that, it could be unconstitutional, and he would imagine there may be a law suit, but that he can not say for sure.

- Q. Representative Squires indicated there have been several figures floating around as far as how many investigators they have, and her understanding is that the responsibility of these investigators is not only to find employers who are not covered by workers comp, but also to look at those employees who have been labeled, here, as fraudulent. She asked Mr. Micone how many investigators there are in the state, at this time.
- A. Mr. Micone asked permission to defer that question to Mr. Murphy.

Mr. Murphy responded that there are one and one-half FTEs in the uninsured employers unit who are responsible for determining whether an employer has the proper coverage. He added that they get assistance from auditors in the UI department, who happen to identify employers who do not have the insurance, noting that there are 20 auditors who do UI audits, workers comp, state fund audits, and uninsured audits, but that, actually, there are about one and one-half FTEs who are responsible for that.

Mr. Murphy noted that Senator Manning asked about that, and reported that the activity of that uninsured unit is in their annual reports. He indicated he remembers that, in the 1988 report, about 440 employers were fined and penalized for not providing coverage, and that there were something like in the thousands of investigations conducted.

- Q. Senator Blaylock asked Representative Driscoll, if this bill were to pass, if they have provided a date for the tax.
- A. Representative Driscoll responded June 30, 1991.
- Q. Representative Cocchiarella asked Representative Driscoll what he thinks the chances are that they will be able to remove that tax in 1991.
- A. Representative Driscoll responded that, if they do not find some other money, slim and none. He indicated that, until they pay off the \$215 million, or whatever the

number is, and there are enough investments, that he would assume they would have to have somewhere in the neighborhood of \$150 million in the bank drawing investment earnings, noting that he is taking these numbers out of the sky, that he is not an actuary, and indicated they will have to have some kind of artificially high rates, or some other source of income to pay it off.

- Q. Representative Simpkins referred to page 15 of the bill, and indicated everybody keeps referring to it as a premium. He then referred to line 5, and pointed out that it clarifies this is not a premium, that it is a tax, and that the sole purpose is to pay off the debt. He asked Representative Driscoll if that is the way they have it set up, and if the only way that money can be used is to pay off that debt.
- A. Representative Driscoll responded yes, that is basically what they use it for, but indicated that the money all goes in one place, to the Board of Investments, and, whether they take his 30 cents and pay a claim that happened today, or they take his 30 cents and pay somebody from 1985, how is he going to know it, adding that it is just bookkeeping, and just words. He indicated that, because they are dedicating this money to workers comp, that is where it is going, and, if there is anything wrong with the bill, or the exclusive remedy, whatever you call it is immaterial in front of the courts.
- Q. Senator Devlin asked Representative Driscoll what he foresees happening, if the so-called 22% is imposed on those insurers, as far as jobs and companies which employ people.
- A. Representative Driscoll responded that, in the high-wage, good jobs, not in the service trade, he sees mechanization at a faster rate, noting they will mechanize, anyhow, if they can save money, but this would drive it faster. He added that, in small companies, he sees the owner hiring less and doing more of the work himself, or simply going out of business, if they can not afford the rate.
- Q. Senator Devlin asked if that would mean less jobs, then.
- A. Representative Driscoll responded yes.
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- Q. Representative Whalen indicated that, in January, when the House Labor Committee met, some people from the division and state fund conceded that employee fraud constituted less than 1% of all claims filed, and that a lot of employers did not have coverage. He further indicated that, at the same time, two or three employees were being prosecuted in court, and could be sent to jail for fraud, but that not one employer had been prosecuted, under the reciprocal part of that statute, for fraud by not carrying workers compensation insurance. He indicated that he is confounded to hear they have one and one-half investigators investigating employer fraud being perpetrated on employees in this state, and asked Mr. Murphy why something is not being done about that, greater than what is being done right now.
- A. Mr. Murphy responded that the uninsured function has been in existence for some time, that the fines and penalties levied by the uninsured unit, as he indicated, were over 400 a year, in the one year he can remember. He added that the division is, in fact, pursuing uninsured employers, and that the statute allows them to fine and penalize them, or issue closure orders. He indicated that the more bodies, the more they can do, and reported that there have been requests, at least at the division level, for increased support in that area. He noted that he heard Mr. Micone indicate that, when that function transfers to the department, he will pursue that more aggressively.
- Q. Representative Pavlovich referred to page 13 of the bill, Line 16 under "Temporary findings and purpose", which says "other sources", and asked Representative Driscoll if he has anything in mind for other sources.
- A. Representative Driscoll responded that his first amendment was for \$10 million from the general fund, and he has a bill in to tax soda pop, that Representative Whalen has a bill, and so does Senator Rapp-Svrcek. He indicated that, depending on how the school funding comes out, if they make the surcharge effective in July for schools, they could take the first six months of that 10% surcharge, and take accelerated income tax collections. He pointed out that they need to get some money in the fund so they can make some money off investment earnings to keep the rates from going up, and keep their cash flow from going to zero.

- Q. Senator Keating indicated that the Legislature was asked to appropriate money for computer expansion and refinement in the workers comp department, and asked Mr. Murphy if that computer is up and working, if they are getting good data out of the computers, or if there is reason to doubt they are getting accurate figures.
- A. Mr. Murphy responded that the information being provided to the actuary out of their system is accurate, that he does not think there is any question about that. He indicated he thinks where they are seeing some disagreement is in the assumptions they are drawing, that he is not sure the Legislative Auditor agrees with the assumptions the actuary is drawing, adding that he thinks the data is good.

Closing by Sponsor:

Representative Driscoll indicated he guesses one of the problems is that the claims examiner, the person who reserves the money for a claim, in some cases, reserved low. He explained that, if somebody gets hurt and they think the claim will cost \$5,000, but it ultimately costs \$10,000 or \$15,000, they are short that much, and they would not have the money to pay it, if they did not adjust premiums. He then pointed out that one would not do anything, but that, if there were quite a few where they missed their guess like that, it would create quite a problem.

Representative Driscoll reported that the cash-flow projections from the Legislative Fiscal Analyst were using projections of cash-flow with \$42 million in the bank, but that, according to the Board of Investments, there is \$29 million in the bank. He added that, when these projections were done a year ago, they projected \$92 million in claims paid in fiscal year 1989 when, in fact, it is over \$106 million in this fiscal year, which will end Friday. He then noted that, on January 1, when they separate the fund from the division, it is no longer, in his opinion, completely immune from suit, like the government is. He related that a friend was hurt in 1983, and has a settlement coming, under the old law, in a lump sum, but that another person hurt in a similar accident, at a similar time, received \$85,000 and, if he does not receive his money pretty soon, he is going to sue. He indicated that, after January 1st, if they do not settle with him, he will probably file a bad-faith suit, like he would against a regular insurance company. He explained that this accelerates the payments, which is the problem the Auditor

has, and that they have to talk with the actuary to see how soon these claims are coming due, what estimates he is using, and whether or not the state is going to pay out \$113 million next year, or if it is really \$125 million. He pointed out that a lot of that is aging of these claims, prior to 1987 claims, that those people are still entitled to a lump sum payment and, if the actuary has reserved them properly, or recognized them properly, they are okay, with the 22% rate increase but, if those people start getting their lump sum payments quicker, they do not have enough money.

Representative Driscoll indicated that, if they run out of money, the injured worker who has a claim and a bi-weekly payment will not get a bi-weekly payment. He added that the worker might get a registered warrant, but that he does not know what they would do, and supposes they will be back in special session before that happens. He pointed out that, as the money goes down, the interest earnings go down, which just compounds the problem, and that he guesses, in order to solve it quick, they could put in about \$200 million, one time, which would fix it. He then reported that self-insurers estimate they save 22% to 25% under SB315, that, although they are not ready to say that is solid because they do not have enough data, they are still saying it will be real close to that. He added that the state fund did not save it, because they were paying unfunded liability with it, or the rates were too low in the first place, or whatever. He pointed out that, in this rate increase, there is 7.7% for back debt, and that, in one of the rate increases in the past, he believes there were another few percentage points, so that the rates, without the debt, could be 30% lower. He explained that is not in every class, that it depends upon the experience factor of each class, but that the rates are too high because of this debt, and they are subsidizing to the tune of \$12 million right now, with the employers' payroll tax. He reported that Wyoming subsidizes someplace to the tune of \$40 million, but that they also have one rate structure, no matter what occupation, that, for a low experience occupation like office and clerical, it is \$3.80, and for a logger it is \$3.80, pointing out that, for a logger in Montana, it is \$38, and for secretaries it is \$.36, noting they are taking money off the low-risk, and subsidizing everybody, adding that Idaho does something similar, although not as drastic. He stated that, if Montana is going to compete with those states, he guesses they will have to get in the ball game, noting that they did not start this subsidy war, but it is there, and that, on top of the subsidy war, there is a \$215 million debt. He added that he would not be surprised to come back in 1991 and find out it is higher, because no one knows what it is.

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Representative Driscoll then suggested that, as Representative Darko said, the audit committee, or somebody, should get another actuary who deals with workers comp companies, only, and other state funds, and find out who is owed, how much, and that then maybe they can fix it, noting this not a long-term fix, that it is a fix until 1991 to keep the rates from going up. He added that, if they do not keep the employer payroll tax on, there will be another 10.08% raise put on by the division in 1991, and they will have, probably, the best workers comp, but no jobs.

Chairman Russell announced the hearing on HB56 as closed.

HEARING ON HB 54

Chairman Russell noted there is not much time, but that the committee will try to accommodate Representative Bardanouve as much as they can. Chairman Aklestad announced to the Senate committee members that they will continue a joint hearing, noting that Chairman Russell indicated they will try to complete the hearing for proponents and opponents, that the Senate members will be able to hear both sides, and not have to re-hear it.

Presentation and Opening Statement by Sponsor:

Representative Francis Bardanouve reported that, when he heard what will happen to workers comp, it concerned him, noting that he realizes workers comp is not a pension system, but that, for years, he has attempted to keep the various trust funds and pension funds actuarially sound. He indicated that, a couple of sessions ago, they found that workers comp may not be actuarially sound, and he became involved in a battle on the floor, late one night, that he and a gentleman across the aisle fought a bitter battle late into the night to put a .03% on the law books. He noted that they came very near to losing that battle and, had they lost it, workers comp would now be bankrupt, no question about it.

Representative Bardanouve indicated he does not know what is going on in workers comp, that they have had workers comp reform, they have cut benefits, and have done this and that. He reported that, a short time ago, they had a so-called deficit of some \$40 or \$50 million; then, a year or so later,

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: 6/27/89

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	✓		
SENATOR SAM HOFMAN	✓		
SENATOR J.D. LYNCH	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE	✓		
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GARY AKLESTAD	✓		

TESTIMONY BEFORE THE JOINT HOUSE AND SENATE LABOR COMMITTEE ON
SENATE LABOR & EMPLOYMENT
HOUSE BILL 56

EXHIBIT NO. 1

DATE 6/27/89

BILL NO. HB 56 p. 1

BY MIKE MICONE, COMMISSIONER OF LABOR AND INDUSTRY

JUNE 27, 1989

Last March I appeared before the House Labor and Employment Relations Committee in support of the employee wage tax - SB 405.

The tax at that time was proposed to reduce the unfunded liability of the workers' compensation system. We stated at that time that many people viewed the unfunded liability as a major deterrent to a good business climate. And it's not just business or employers that want to reduce the debt.

We stated that workers perceive the unfunded liability as a threat to the well-being of the system that is supposed to pay their medical expenses and replace lost wages in case of injury.

We still believe both of those statements are valid.

Since the announcement that the liability had increased, and that rates would increase on July 1, I have received a number of inquiries of what can be done to stop the spiraling of costs and subsequent increases. Our concerns, like yours, are how do we maintain a viable, actuarially sound fund, and yet maintain rates at a level that will not drive businesses out of Montana or forced to close their doors.

HB 56 - 2

I'm convinced that the changes made in past legislation, and the contemplated structural changes will begin to show results given time to operate. But the problems in workers' compensation were created over a long period of time and will not be resolved overnight. It will take a dedicated effort on everyone's part and over a long period of time to make it work.

The actions contemplated by this special session may appear to be resolving the problem. But in essence, what you are addressing today can only be viewed as a short term stop gap approach to a long term problem.

You are in effect making a decision to subsidize the workers' compensation system. If, as is proposed, the subsidy is removed after two years and costs have continued to escalate, the resulting rate increase at that time could be far in excess of the 22% proposed at this time.

The decision to impose a tax on employees is not an easy one to make. We recognize your concerns that an increase in workers' compensation rates at this time could have a detrimental effect on Montana's economy. If the actions, as proposed in HB 56, eliminate one of Montana's major stumbling blocks to an improved economic climate, it will certainly benefit all Montanans' in the long run and should be given serious consideration.

I would suggest that Sections 7 (1) be amended to allow for the State Mutual Insurance Fund to collect the tax. As proposed, it transfers the responsibility to the Department of Revenue for collection of the employer payroll and employee wage tax.

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The 1989 legislature allocated 1 1/2 FTE to administer the tax and the State Fund has in place the system necessary to collect the tax. We believe that for the short term, 1 to 1 1/2 additional FTEs could be allocated to the State Fund for the additional collection with no requirements for program start up.

If in 1991, the legislature determines the tax should continue for the longer term, we would suggest the transfer to the Department of Revenue be made at that time.

Thank you for the opportunity to appear before you.



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

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SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2 *PSL*

DATE 6/27/89

BILL NO. H356

STATEMENT OF DON JUDGE ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989
LEGISLATURE, JUNE 27, 1989

Madam Chair, members of the committee, for the record my name is Don Judge and I'm representing the Montana State AFL-CIO in opposition to House Bill 56.

When I think about the reason we are in this hearing today, I need to reflect for a minute about the process by which we arrived here.

The Legislature is working very diligently to find a solution to the school funding problem, an issue some feel is the most critical matter facing the state right now. In that effort, you're working on the basis of a well-documented and thoroughly thought-out Supreme Court decision based on literally years of work by the courts, the legal profession and the education community. Regardless of where you stand on that issue, you have to agree that it is one that has received careful consideration based on a massive amount of study and input.

On the issue of the payroll tax to subsidize Workers' Compensation, we cannot make the same claim. We believe that the Legislature is rushing to act on this issue, which is based on audits we can't agree upon and decisions by the Workers' Compensation Division to raise premium rates, perhaps unnecessarily. Worse yet, this rush is ignoring the basic conclusions reached during the regular legislative session: that the real purpose of the Workers' Compensation system is to provide a safe and healthy workplace, and to compensate workers when they're hurt at that workplace.

This rush to judgment on such a serious policy reversal may have widespread implications for decades to come in Montana. Your decision on this vital question should be the result of a serious, deliberate discussion buttressed by hard facts and sound logic. Without that, we believe that Montana could pass a bad law, and then we all lose, regardless of whether we ever have any involvement with the Workers' Compensation system. We need to stop . . . think . . . reach into our collective wisdoms and avoid hasty action.

The Montana State AFL-CIO remains opposed to an employee payroll tax to subsidize premium rates for employers covered by the state Workers' Compensation Fund. Our members opposed this issue when it was proposed in the regular session of the Legislature, and they continue to oppose it now.

We believe that there are three basic reasons to oppose an employee tax subsidy. First, the largely unexplored area of cost control; second, the Constitutional implications, and third, the uncertainty surrounding the actual status of the state fund.

Let me explain these in a little bit more detail.

Cost control seems to be popular everywhere in the country except Montana, particularly with the State Fund. Throughout the regular session of the

Legislature, workers attempted to get lawmakers and opinion leaders to focus on the single most important issue in Workers' Compensation: the high rate of workplace injuries and accidents here in Montana compared with the rest of the country.

We'll say it again here today: If you can put a lid on accidents and injuries, you can cut the cost of benefits and medical care and, in turn, reduce employer premium rates. If you continue to ignore Montana's higher-than-average accident rate, we will continue to see growing benefit and medical costs, along with a growing number of injured and maimed workers.

We are further concerned that a move toward subsidizing employers' premium rates will erase any incentives for employers to provide safe workplaces. Responsible employers will continue to do their best to provide a workplace that is safe for customers and employees, but we're very concerned about the effect this proposal might have on less responsible employers.

Basically, we fear that an employer who has a high workplace accident rate may not care what effect that has on premiums if he knows that the premium rates are going to be subsidized anyway. We firmly believe in the need for strong safety incentives and for serious, state-mandated safety programs for all industries in order to control costs by reducing injuries.

That brings up the second part of the cost control issue. Very little attention, if any, has been focused on measures to control the costs of medical care under the program, despite a national focus by the public and private insurance industry on medical cost containment.

To its credit, the private sector insurers in Montana appear to have taken some positive steps toward medical cost control in the last decade. Let me cite some figures for you, based on the annual reports of the Workers' Compensation Division. In Fiscal Year 1978, medical costs made up nearly 31 percent of the total benefits paid by the State Fund, and nearly 32 percent of the benefits paid by private insurers. Ten years later in FY'88, the State Fund still was paying more than 30 percent out in medical costs, but the private insurers had cut theirs down to only 26 percent.

If the State Fund would focus some energy on medical cost containment, particularly on some of the outrageous fees paid to consultants, rehabilitation specialists and others, the program would be financially healthier.

I want to note that just yesterday our office received the quarterly newsletter of the Alliance of American Insurers, which is not a group known for any particular sympathy for labor unions. One entire page of their newsletter focuses on the problem of medical care costs being shifted onto Workers' Compensation systems because they have few if any of the cost control measures that have become standard throughout the rest of the insurance industry. The Alliance concluded that the continued existence of the workers' compensation system nationally may depend on the imposition of medical cost controls.

Our second major concern is the tradeoff that established the ground rules for workers' compensation in Montana. Under the Montana Constitution, Article II, Section 16, workers forgo their rights to sue employers over workplace injuries, so long as their employer provides Workers' Compensation insurance. We believe that the word, "provides" in this case means that the system is the employers' financial responsibility, not the employees'. If you have to help pay for it, it's not "provided."

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Under the Constitution and Montana law, employees already sacrificed the right to legal redress that every other citizen enjoys. They also sacrifice their very lives and limbs at the workplace when they suffer a job-related injury. We believe that to ask them to make even further sacrifices by paying for this system is not only a violation of Constitutional intent, but just plain unfair. Think about it . . . employers would be able to shift part of their burden onto their workers and still retain their immunity from lawsuits. They clearly would get to have their cake and eat it, too.

Our final major concern is quite simply the depth of the problem with the State Fund. No one can tell us for sure what it is. We're not convinced that anyone on the Hill -- the Legislature, the auditor, Workers' Compensation, the Administration -- has valid numbers to support their position on this issue.

The Legislative Auditor presents us with numbers to show an impending jump in the deficit, but then tells us that the numbers probably aren't right. The Division presents numbers, but the Auditor doesn't agree with them.

Everyone agrees that more numbers have to be generated in order to arrive at a true picture. Shouldn't that raise a big red flag for us all? We simply can't support any proposed solution as drastic as this when no one has a solid handle on the problem that is driving the issue.

We believe that responsible legislative action demands an agreed-upon analysis of the problem before any such action is taken. We cannot simply stand by and assume the correctness of such drastic action to solve a problem that no one is able to accurately define.

We can, however, support a comprehensive audit of Workers' Compensation, with an independent actuary not previously involved with the system, to arrive at a set of facts upon which everyone agrees. We can understand if you decide to provide a broad-based subsidy to the system in the period during which an audit is being conducted. We can recommend that you seriously consider making our system an exclusive state plan in which the private insurance sector cannot cream the good employers off while the state fund is required to accept all the bad risks. We can recommend a system to you wherein good, safe employers see substantial premium savings based on their experience of providing a safe and healthy workplace. And we can recommend to you a system in which premiums are based on hours worked rather than total payroll -- a system that would reward good employers in the high-wage, high-risk industries.

For all of the reasons we've discussed here today, we oppose House Bill 56. You have a tough problem in front of you and a tough decision to make. However, difficult problems are not solved with hasty decisions. We urge you to give this bill a "Do Not Pass" recommendation.

I know our testimony today has been longer than normal, and I thank you for bearing with us. The length of our statement reflects the importance we attach to the issue and the action you take on it.

Thank you.

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HELLGATE LOCAL 885
UNITED PAPERWORKERS INTERNATIONAL UNION, AFL-CIO
P.O. BOX 8885, MISSOULA, MONTANA 59807

(406) 543-7788

STATEMENT BY ROBERT CULP ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989 LEGISLATURE, JUNE 27, 1989
=====

Madam Chair, members of the committee, my name is Robert Culp. I'm the Safety Chairman for Local 885 of the Paperworkers Union, which has about 550 members working at the Stone Container plant in Frenchtown. I'm here today in strong opposition to this bill.

I'm responsible for enforcing contract provisions relating to safety and health in our workplace, so I can speak with some expertise on the issue of workplace safety and Workers' Compensation in general.

Our members are flat out opposed to an employee tax to subsidize our employer's Workers' Compensation premium rates. We're concerned about the bad precedent it would set if employees starting subsidizing the system. We're even more concerned about giving subsidies and reduced rates to an employer who has cut our wages and worsened our working conditions, even while the company enjoys strong profits. To heap even more bad news for workers on top of all that is unfair. It's especially unfair when our employer gets to keep his immunity from lawsuits.

If this bill passes, the bottom line for us would be that we'll have abide by our part of Montana's constitutional "bargain," we'll have to pay an extra tax to support our employers, we'll have to suffer the crippling effects of workplace injuries, and we'll be called the stumbling blocks on the road to Montana's economic development. Meanwhile, our employer will get to ignore his part of the bargain: He'll get reduced premium rates. He'll be able to ignore workplace safety. And, he'll still be perceived as the builder of Montana's economy.

One of our slogans at the Paperworkers is "Just say No;" we say no to drugs and we say no to regressive legislation.

We say no to this employee tax to subsidize our bosses.

We say put safety before production, not production before safety.

Montana's loggers have proved that safety works, through the safety program run by Flathead Valley Community College. It's clear that if the employer has the proper equipment and the proper incentive, safety programs work by cutting injuries and cutting Workers' Compensation costs.

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TESTIMONY OF BOB CULP ON HOUSE BILL 56

PAGE TWO

June 27, 1989

Montana's workplace safety record is far worse than the national average, and we believe one of the reasons is the lack of teeth in our safety laws. We believe employers must be required to have a full commitment to a safe workplace.

We believe that employers who have high accident rates should pay for his own shortcomings, and that asking workers to pay for them is almost criminal.

Employees around the state are being asked for concessions and givebacks by their employers. This would be just another concession, just another piece out of our paycheck.

We urge you to join us and just say no to this bill. This is a bad deal for workers, for their families and for all Montanans, and we urge you to vote against it.

Thank you.

WESTERN COUNCIL OF INDUSTRIAL WORKERS

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

EXHIBIT NO. 4

DATE 6/27/89

BILL NO. HB 56

BLUE MOUNTAIN
CENTRAL CALIFORNIA
CENTRAL OREGON
CENTRAL WASHINGTON
COOS BAY AREA
INLAND EMPIRE

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NORTHERN CALIFORNIA
PORTLAND COAST COLUMBIA
PUGET SOUND
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WILLAMETTE VALLEY

721 S.W. OAK STREET

PORTLAND, OREGON 97205



STATEMENT BY JIM HILL ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989
LEGISLATURE, JUNE 27, 1989

Madam Chair, members of the committee, my name is Jim Hill, and I'm the Area Representative for the Western District Council of the Lumber, Production and Industrial Workers Union. I'm here today to oppose House Bill 56.

We represent about 1,800 members in locals in Libby, Olney, Missoula, Thompson Falls, Bonner, Columbus and Bozeman.

As lumber workers, we're very familiar with the problem of rising Workers' Compensation costs for the state and for our employers. However, we're also very aware of the costs levied against our members in terms of accidents and injuries.

We believe that increased emphasis on safety is the most important step that can be taken to control Workers' Compensation costs. A special safety program run through the Flathead Valley Community College this year has cut injuries and accidents for the enrolled employers by about 50 percent. We believe that those kind of safety programs are definitely the way to go, as they'll lead to lower costs to the system and eventually, lower premiums to the employers.

We know that the impacts of safety achievements like this on an employers' rates are felt only as part of a three-year running average, but we believe the long-term benefits to everyone are worth it.

Because of our focus on safety issues, we're very concerned about the effect this bill might have on employers. An employee tax is nothing but a subsidy to help hold down employers' insurance premium rates. We're concerned that a direct subsidy of those rates by workers will take away the incentives for employers to provide a safe workplace. In essence, we believe that some employers may be inclined to throw out safety programs once they know that their rate increases will be subsidized by the workers themselves.

We're especially opposed to a subsidy which is provided by employees, the working people who are injured and maimed on the job.

Testimony of Jim Hill
Page Two
June 27, 1989

We've heard some talk in recent years about how working people have to help pay the price of the Workers' Compensation system. I'm here to tell you that they're already paying that price with their sweat and their blood. Montanans pay the price when they walk onto the job every day, where they run a 1 in 10 risk of getting injured sometime during the year. Bodies are maimed, lives are disrupted, families are torn apart by workplace injuries. So I won't believe that workers don't already pay the price for Workers' Compensation.

The members of the Lumber, Production and Industrial Workers are absolutely opposed to a tax on employees to subsidize employers' Workers' Compensation premium rates.

Thank you.

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UNITED STEELWORKERS

BOX 490
EAST HELENA, MONTANA 59635
TELEPHONE 227-6261



OF
AMERICA

AFL-CIO
SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5 p21
DATE 6/27/89
BILL NO. HB56

STATEMENT BY JAY REARDON ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989 LEGISLATURE, JUNE 27, 1989

Madam Chairman, members of the committee, my name is Jay Reardon and I'm president of Local 72 of the United Steelworkers of America. I'm here today representing the 225 workers at ASARCO's East Helena Plant and as President of the Helena Trades and Labor Council. Both organizations oppose House Bill 56 and any move toward an employee payroll tax to subsidize the Workers' Compensation system.

House Bill 56 is unfair. It goes against the basic principle of Workers' Compensation insurance, that being that the employer pays the premium on a no-fault insurance plan and the employee gives up any right to sue over workplace injuries.

This bill is another attempt to place the Workers' Compensation problems on the backs of workers and their families. Many people say that workers don't pay anything for the system, and that they should somehow help out. Let me tell you for a minute just exactly how workers do pay, every day.

We paid in the 1987 Legislature when injured workers were forced to take a seven-working-day deductible before getting benefits. We paid when they eliminated repetitive trauma as a compensable injury.

We paid with changes concerning industrial respiratory and coronary disease, changes that severely limit a worker's ability to recover benefits for these when they're work-related.

Workers paid with a freeze in maximum benefits while other costs around us continue to rise. Workers' families paid with reductions in death benefits if a worker was so unfortunate as to be killed on the job.

We also pay every day on the job, where we stand a 1 in 10 chance of getting hurt sometime during the year.

We pay every day with our arms and our legs, with our fingers and with our toes. We pay with the loss of eyesight and hearing. We pay with our lungs and our hearts. And some of our friends and family pay the ultimate price; they pay with their lives.

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How much did we pay? Last year, 28,613 workers paid with injuries, and another 25 paid with their lives.

So what's the solution? In the short-term, the state could either increase the payroll tax on all employers or bond off the deficit to remove it from the rate base.

In the long-term, we should do away with the three separate plans we have here in Montana and go with an exclusive state fund that encompasses all employers, not just the worst risks like we have in the State Fund now.

We should also encourage employers to police themselves and their fellow business people, many of whom don't obtain the required coverage or don't pay their premiums. These bad employers cost their colleagues and all of us money and, ultimately, injuries.

We should also insist on a safe and healthful workplace as the best way to reduce injuries and, as a result, keep costs under control.

Let me give you an example from our employer, the ASARCO facility in East Helena. The company is required to give us statistics on injuries and illnesses in the plant. Let me share with you some of the statistics ASARCO has provided.

In November 1985, the rate of incidence of disabling injury or illness per 200,000 man hours worked was 1.33. The severity rate was 80.0, which represents 80 actual lost days per 200,000 man hours. By the first half of 1988, the incidence rate had jumped seven-fold, to 7.75, and the severity rate had jumped to 137 lost days per 200,000 man hours.

With official company statistics like that, we can see very clearly why the cost of Workers' Compensation is going up: it's because injuries are going up and the severity of those injuries is going up.

In closing, let me make a little analogy. Making workers pay part of the cost of Workers' Compensation insurance is very much like asking your house guests to pay part of your homeowners' insurance to cover whatever might happen while they're visiting. That's an outrageous notion, and the idea incorporated into this bill is just as outrageous.

We urge you to vote against House Bill 56.

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ASARCO Incorporated

EAST HELENA PLANT

EAST HELENA, MONTANA
59635

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 6
DATE 6/27/89
BILL NO. H656
TELEX 31 3120
TEL. 406-227-5311

M. A. SHARP
MANAGER

R. D. HEARST
SUPERINTENDENT

G. J. JONES
ACCOUNTING MANAGER

November 19, 1985

Mr. James P. Reardon, President
United Steelworkers of America
Local 72

Dear Jay:

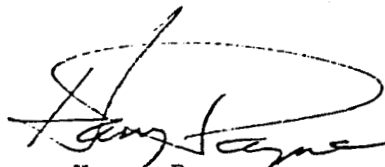
In accordance with the Safety and Health Article contained
in the National Agreement, please be advised of the following statistics
for the Third Quarter of 1985:

East Helena Incident Rate * 1.33

East Helena Severity Rate * 80.0

* Incident Rate - Number of disabling injuries/illnesses per 200,000
man hours.

* Severity Rate - Actual days lost per 200,000 man hours.


Harry Payne

Mr. John Finch, President
U.S.W.A. Local 72
East Helena, MT 59635

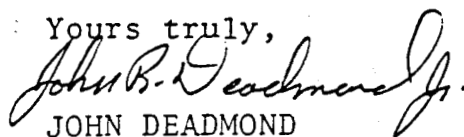
August 23, 1988

Dear John:

In accordance with Safety and Health of our agreement, following is a summary report of accident frequency and severity at our plant for the 1st half of 1988.

	<u>Hours Worked</u>	<u>Incident Rate</u>	<u>Severity Rate</u>
First Quarter	144,996	8.28	99.0
Second Quarter	138,762	7.20	174.7
YEAR TO DATE	283,758	7.75	137.0

Yours truly,


JOHN DEADMOND

JD/od

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Yellowstone Valley Central Labor Council

LABOR TEMPLE

Twenty-Four South Twenty-Ninth Street

Billings, Montana 59101

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 7

DATE 6/27/89

BILL NO. HB56

STATEMENT BY DARRELL HOLZER ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989 LEGISLATURE, JUNE 27, 1989

Madam Chairman, members of the committee, my name is Darrell Holzer, and I'm a member and president of Plumbers and Pipefitters Union Local 30 in Billings. I'm here today as president of the 5,000-member Yellowstone Valley Central Labor Council, which is opposed to House Bill 56.

The Yellowstone Valley Central Labor Council met last night in Billings to consider this issue and this bill in particular. At that meeting, I was directed to travel here today and express the Council's unanimous opposition to House Bill 56 and to any payroll tax paid by employees.

At its inception, the Workers' Compensation in Montana represented a tradeoff that ultimately benefited the employer more than anyone else. Employers recognized the need to protect themselves against liability for workplace injuries, and acknowledged the need to create a workers' compensation system to do that. In that tradeoff, workers lost their right to sue their employers over workplace injuries, as long as employers carried Workers' Compensation insurance.

That tradeoff was detailed in our most fundamental legal document, the Montana Constitution. At the risk of belaboring the point, let me read, in part, from the Montana Constitution, Article II, Section 16:

"No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workmen's Compensation Laws of this state."

If you require employees to begin paying for this system, a move taken only by one other state in this nation, you will break that Constitutional tradeoff, but only for one of the parties. Employers will get off the hook for having to provide a Workers' Compensation system. Employees, though, will still have no rights to take up workplace injuries in the courtroom.

Not only is that move unfair to workers, we're very concerned that if we let employers off the hook on paying for the system but still give them immunity from lawsuits, many of them will abandon any pretense at safety in the workplace.

If employers can be confident that their premium rates will be subsidized by someone else, then some of them may not care about their workplace injury rates and the higher rates charged as a result. They'll just pass it on to whoever is paying their subsidy.

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Our final concern is perhaps, in the immediate case, the most important, and that is the question of the numbers. Exactly how bad is the problem with the State Fund? We've seen several different figures for the unfunded liability, and we've seen public disputes over even those figures. We continue to hear that the State Fund may still have a positive current cash flow, but even those figures are in some doubt.

We don't question for a moment that there's a problem in the State Fund, and that legislative remedies probably will be necessary. However, we can't support this mad rush to judgment on a problem that has not been clearly defined yet.

Members of the trade union movement in Montana have for years been calling for an independent audit of the Workers' Compensation system because of just this problem. We renew that call again today.

As working people who labor in some of the most hazardous professions in the state, our members fully understand and support the need for a sound Workers' Compensation system. However, we cannot support this unfair tax to subsidize our employers. We will not provide the shield to protect them from liability if they have an unsafe workplace, and we certainly won't pay their costs.

We urge you to vote against House Bill 56.

Thank you.



International Union of Operating Engineers

Local 400

Affiliated with AFL-CIO

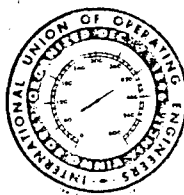
Montana

JOHN C. "JACK" CALDWELL
President

MICHAEL J. KEATING
Vice President

BOB DANIELS
Treasurer

LARRY GRIBBLE
Rec. Corres. Secretary



JOHN C. "JACK" BALL
Business Manager &
Financial Secretary

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 8
DATE 6/27/89
BILL NO. H656

HEADQUARTERS
2737 Airport Road
Helena, Montana 59601
Telephone: (406) 442-9597

MAIL ADDRESS
P.O. Box 5929
Helena, Montana 59604

STATEMENT OF LEN BLANCHER ON HOUSE BILL 56, SPECIAL SESSION OF THE 1989 LEGISLATURE, JUNE 27, 1989

Madam Chair, members of the committee, my name is Len Blancher. I'm the assistant business manager for Local 400 of the Operating Engineers Union, and I'm here today in opposition to this bill.

The members of the Operating Engineers Union oppose an employee tax to pay for Workers' Compensation costs. We're very familiar with those costs, as most of our members work in the building trades industries that face some of the highest premium rates.

We recognize the problem associated with the high cost of insurance and the rising costs of providing benefits to injured workers. However, we also recognize the problem of workplace injuries, and we don't think it's fair to slap a tax on workers while ignoring safety.

We believe a stronger emphasis on safety is more important to the long-term solvency of the Workers' Compensation system. If you cut the number of workplace injuries and accidents, you cut the number of claims and the cost of providing benefits. That translates eventually into lower premiums for employers, a safer workplace for employees and a stronger system overall.

We question the wisdom of rushing into this proposed solution to the unfunded liability problem when the Legislature's and the Administration's experts don't even agree on the scope of the problem yet.

There is no hard number on the deficit in Workers' Compensation -- we've heard everything from \$150 million to over \$210 million. Perhaps the number goes the other way -- perhaps it's less than \$150 million. I doubt it, but the point is, no one appears to know for sure. We definitely oppose drastic action such as an employee tax when no one is even sure how big a problem we have.

If a subsidy to Workers' Compensation is necessary, we believe it should be more broadly based than just workers. If we're trying to fix this system for the good of the state, the good of the public, then we ought to draw more players into the game. A general fund subsidy would be far more appropriate than just singling out the workers whose only real involvement in the system is getting hurt and crippled on the job.

A good example of why we should bring the public at large into the issue is the people who profit from Workers' Compensation, but who likely wouldn't have to pay this proposed tax. Lawyers, doctors, rehabilitation specialists, medical consultants, hospital officials and others make lots of money off the system, but would not have to pay this tax on their profits. We think that's unfair.

We oppose the idea of a Workers' Compensation subsidy paid only by workers.

Thank you.

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Amendments to House Bill No. 56
First Reading Copy

Requested by Representative Driscoll
For the Joint Committee of House Labor and Employee Relations
and Senate Labor

Prepared by Eddy McClure
June 27, 1989

1. Title, line 13.

Following: "MCA;"

Insert: "APPROPRIATING MONEY FROM THE GENERAL FUND TO REDUCE THE
UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
INSURANCE FUND;"

2. Page 15, line 13.

Following: "withhold"

Strike: "form"

Insert: "from"

3. Page 16, line 22.

Insert: "NEW SECTION. Section 12. Appropriation. There is
appropriated \$10 million from the general fund to the
workers' compensation payroll and wage tax account in the
state special revenue fund for fiscal year 1990 to be used
to reduce the unfunded liability in the state compensation
mutual insurance fund."

Renumber: subsequent sections.

VISITORS' REGISTER

COMMITTEE

1063

BILL NO. HB 56

DATE

6/26/89 6/27/89

SPONSOR

Russell

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
James A. Hill	E. MSLA		✓
Robert L. Culp	Frenchtown		✓
Thomas E. Schneider	Holena MPEA		✓
Don Judge	MT STATE AFL-CIO		X
JAY REARDON	USWA LOCAL 72		X
Kathy Krusch	Boulder		
Ben Haddad	MT Motor Carriers Assn	X	
DARREL HOLZER	YELLOWSTONE VALLEY LABOR		
Bill Olson	MT Contractors	X	
GARY SCHWEDER	Whitfish	✓	
BARB TURNER	"	✓	
STU McQuade	KALISPELL	✓	
Dorson Morris	MAC		
Len Bracker	I.H.O.E. #400		✓
Mike McCain	Dept of Labor Ind.	X	
Don Allen	Mrs. Wood Products Assn	X	
Tom Owens	Owens & Harst	X	
Bernie Swift	Rep. Dist. #64	X	
Rich Perry	Missoula		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

LABOR

COMMITTEE

2013

BILL NO.

HB 56

DATE

~~6/26/89~~ 6/27/89

SPONSOR

DRISCOLL

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JAMES WOSNER	GREAT FALLS		-
Terry Minow	MT Ed of Teachers		✓
Phil Campbell	MEA		✓
Stuart McQuade	Kalispell	✓	
Michael Sherwood	MTLA		✓
Charles Brooks	MT. ROT. 17550C	✓	
Carol Daly	Kalispell	✓	
Long Staley	Missoula	✓	
George Webb	MT. Self Transcribe.		
Joni Turner	MT Chamber	✓	
John P. Kelly Jr.	Superior		✓

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VISITORS' REGISTER

Sabor

COMMITTEE

3 of 3

BILL NO. HB 54DATE 6/27/89SPONSOR Baltimore

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Wm. Schneider	MPFA		☒
Septu D. Amra	Missoula		
James J. Hill	n m		
R. C. Hill			
Tucker Hill	Champion		☒
Charles Brooks	MT. ROTN. 1/755 DC		☒
George Wood	Mt. Hill Immersion		☒
Dorinda Morris	MAC		☒
Jim Twitwiler	MT CHAMBER		☒
Carol Daly	Kalispell		☒
Leon Stalcup	Missoula		☒
Gurik Shaban	Bar Chamber		☒
Jon Allen	Mt. Wood Park Arch		☒
Jay Kearsley	USWA Local 72	☒	
Ben Hordahl	MT Motor Carriers		☒

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Russell, on June 27, 1989, at 1:00 p.m.

ROLL CALL

Members Present: All with the following exceptions:

Members Excused: Rep. Bill Glaser

Members Absent: None

Staff Present: Eddy McClure, Legislative Council

Announcements/Discussion: This meeting was a Joint House and Senate Labor Committee hearing for HB 56. Chairperson Russell conducted the opponents portion and Chairman Aklestad conducted the proponent portion of the hearing. The House committee had scheduled a hearing for other bills and Chairman Aklestad announced that if there was time before the whole Senate went into Session, the Senate Labor Committee would remain for the other hearings as well. It was agreed that one-half hour each be given to proponents and opponents and that committee members be limited to one question each.

HEARING ON HOUSE BILL 56

Presentation and Opening Statement by Sponsor:

Rep. Jerry Driscoll, District 92, stated that HB 56 is necessary because the Workers' Compensation unfunded liability is presently, by actuarial standards at \$215 million. There will be an average 22% rate increase on July 1 and additional funds are still needed. The issue is to raise money and subsidize the rates and compete with surrounding states. The freeze on benefits in this bill will raise about \$3 million and the tax on employees will raise \$12 million. An amendment (which appropriates \$10 million from the general fund) is offered because there still will be a shortfall in the fund. The amendment would prevent any raises on July 1 of 1989 and 1990.

Testifying Proponents and Who They Represent:

Mike Micone, Commissioner, Montana Department of Labor
Rep. Bob Marks, District 80

Rep. Lum Owens, District 7
Bill Olson, Montana Contractors' Association
Carol Daly, Flathead Economic Development Corporation, Kalispell
Ben Havdahl, Montana Motor Carriers' Association
Jim Tutwiler, Montana Chamber of Commerce
Kathy Kirsch, Small business owner, Boulder
Bonnie Tippy, Montana Innkeepers' Association
Sen. Paul Rapp-Svrcek, District 26
Sen. Jerry Noble, representing self, Jerry Noble Tires
Charles Brooks, Montana Hardware Implement Association, Montana
Retail Association
Sen. Gene Thayer, District 19
Rep. Ole Aafedt, Travel Time RV, representing self

Proponent Testimony:

Mike Micone testified in support of HB 56. Exhibit 1.

Rep. Bob Marks stated that a double digit increase of 20% on the average will further deteriorate the market share of the state fund. If the markets are priced higher than they are now by 20%, then we can expect the market share to deteriorate and that will have a compounding negative effect on the fund. He stated that he was not a strong proponent of putting a payroll tax on the employer at the time it was passed and this issue is becoming a great concern to, not just employers, but employees too. He urges passage of HB 56.

Rep. Lum Owens testified in support of HB 56. He said that we need to find a better way to help ourselves and one way is with the tax on employees. This will draw all the people together with all of the problems in this state because we cannot have a healthy economy when Workers' Compensations rules are what they are.

Bill Olson expressed support of HB 56. He stated that the problem has to be addressed and this is a viable way to do that.

Carol Daly testified in support of HB 56.

Ben Havdahl testified in support of HB 56. He said that Montana truckers are attempting to compete with the surrounding states, all of which have lower costs of Workers' Compensation than does Montana. Sometimes a difference between staying in business and making a profit and competing with trucking companies from other states the cost of workers' compensation insurance. The current rate for truckers in Montana is 16.59%. In July 1 that will go up to 18%, which will certainly compound the problem. The passage of HB 56 will preclude a major increase in that right and commended this committee for taking this action.

Jim Tutwiler urged support of HB 56. Such taxation would help

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resolve a problem that would be temporary in nature. In the concern over the workers' compensation issue and reflecting the concern among businesses around the state, they have tried to see how this is being handled in other states. Those states looked at that have had success, did have a large unfinanced deficit and are operating in the black appear to have one of two characteristics: subsidizing their workers' compensation programs through other revenue sources, and some states have been able to amass a considerable amount of investment portfolio in stocks and bonds, which is used to help the operating costs of their workers' compensation programs.

Kathy Kirsch expressed support of this bill. There is a 22% increase on her business and this will force her to close and will put ten people out of jobs.

Bonnie Tippy testified in support of HB 56 by stating that they represent approximately 8,500 hotel and motel rooms in the State of Montana. These businesses cannot afford such an increase without hurting the tourism industry. Less people will stay in Montana due to high cost of rooms.

Sen. Paul Rapp-Svrcek said it is hard for him to support this bill, but he stated that this problem is real and won't go away until the Legislature addresses it, not only with this bill, but with several other bills that are going to come before this Legislature. The faster we take care of this problem, the faster we can reduce the rates, and the faster we can bring this workers' compensation problem under control.

Sen. Jerry Noble testified in support of HB 56. He stated that his business employs about 50 people in this state. The increase will mean about \$40,000 per year, which used to be net profit so there won't be much profit left.

Charles Brooks testified in support of HB 56.

Sen. Gene Thayer testified in support of HB 56. He stated that if this bill isn't passed, there are two other choices: one is to let the average 22% increase go in, and that means that some of the employers are going to get 80% or 90% increases; or you can reduce benefits. This is the most reasonable proposal that there is before us.

Rep. Ole Aafedt expressed support of HB 56.

Testifying Opponents and Who They Represent:

Sen. J.D. Lynch, District 34

Sen. Bob Pipinich, District 33

Don Judge, Montana AFL-CIO

Michael Sherwood, Montana Trial Lawyers Association

Robert Culp, United Paperworkers International Union AFL-CIO

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Thomas E. Schneider, MPEA
James Hill, Inland Empire Representative to the Western Council
of Industrial Workers from Portland, Oregon
Jay Reardon, United Steelworkers of America
Tom Bilodeau, Montana Education Association
Terry Minow, Montana Federation of Teachers
Darrell Holzer, Yellowstone Valley Central Labor Council
Len Blancher, IUOE #400

Opponent Testimony:

Sen. J.D. Lynch testified in opposition of HB 56 and said that this is the worst bill of the Special Session. Workers' Compensation was set up to protect the employer and was not out of the benevolence of the employer.

Sen. Bob Pipinich opposed HB 56. He said that SB 14 will raise \$56 million for the university system. He will make an amendment to take \$15 million of that money and put it into workers' compensation now. There should be no more additional taxes.

Don Judge testified in opposition of HB 56. Exhibit 2.

Michael Sherwood stated there is a serious constitutional problem with posing a payroll tax on employees. Article 2, Section 16 of the Montana Constitution specifically says that the common law of rights for someone to sue when he had been hurt due to the negligence of another are approbated under workers' compensation when the immediate employer has hired that person provides the coverage for workers' compensation. Now the employee is being asked to provide that. It has been the policy of the legislature to make sure that employers to do what this bill proposes to be done - that is to take money from the laborers and pay workers' compensation premiums. The focus seems to have been on the 0.3%, but benefits are being reduced.

Robert Culp testified in opposition to HB 56. Exhibit 3.

Thomas Schneider testified in opposition of HB 56. He thought it was a bad bill and it is the wrong direction to go.

James Hill testified in opposition of HB 56. The increased emphasis on safety is the most important step to be taken to control workers' compensation cost. Safety programs are the way to go, they lead to lower cost to the system and eventually lower premiums to the employers. Because of their focus on safety issues, they are very concerned about the effect this bill might have on employers. Employee tax is nothing but a subsidy to hold down employers insurance premium rates. The direct subsidy of those rates by workers' will take away the incentive for employers to provide a safe work place. They believe that some employers may be inclined to throw out safety programs once they know

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their rate increase will be subsidized by the workers themselves.

Jay Reardon testified in opposition of HB 56. Exhibits 4 & 5.

Tim Bilodeau opposed HB 56 stating this bill violates the trust agreement between workers and management. Worker safety and the cost of workers' compensation will not be solved by passing the cost onto the injured person and onto the worker.

Terry Minow expressed opposition to HB 56. State employees have had two years of wage freezes. This legislature granted a 2.5% increase and if 3% of that is taking away in just this one bill, would be adding insult to injury. School district employees and the employees of local governments are in the same situation facing I-105 and inadequate funding.

Darrell Holzer testified in opposition of HB 56. Exhibit 6.

Len Blancher expressed opposition to HB 56.

Questions From Committee Members:

Rep. Tom Kilpatrick asked Julie Barr with the Legislative Auditor's Office if they believed that the Workers' Compensation Division would have a cash flow problem and would be unable to pay benefits and providers if no rate increase is implemented by July 1, 1990? Ms. Barr stated that they are comfortable with the rate increase there would not be a cash flow problem. They are not quite as comfortable if there were no rate increase that there would not be a cash flow problem.

Rep. Fred Thomas asked Mr. Micone if there would be a cash flow problem and will they be unable to pay benefits and providers if no rate increase is implemented by July 1, 1990? Mr. Micone stated that their analysis of the cash flow for the state fund with no rate increase indicates that the state fund will run out of cash during the fiscal year 1991.

Sen. Sam Hofman asked Mr. Micone if he had any explanations as to where all of the mistakes were made in analyzing the problem? Mr. Micone stated that SB 315 was starting to show successful results. They cannot control escalating costs and the older the claims get the more costly.

Sen. Richard Manning asked Mr. Micone how many employers are not covered that should be by insurance of some sort and why not? Mr. Micone stated that there were approximately 80% that were not in compliance. By the time the fund separates from the division they will have a concerted effort, not only to ensure that employers are complying and paying their insurance premiums, but intensify efforts to ensure that

66

there is no fraud in the system both from faulty claims from workers and faulty claims from providers.

Rep. Angela Russell asked Jim Murphy if the Auditors' Office and his office could come up with one common set of figures? Jim Murphy stated that the figures that are being talked about are the cash flow projections. The unfunded liability is established by the actuary and there isn't any disagreement with that figure. The problem with the cash flow is getting the actuary and the Legislative Auditor's Office to agree as to what they think the payout pattern is going to be. The only cash analysis that they did, left everything as is - employer taxes already in place, no rate increase, cash analysis over fiscal year 1990 would indicate that they would draw down about \$9 million in investments. The minute you start doing that the interest that was to be earned in the out years is going to be less because investments are going to come down.

Sen. J. D. Lynch asked Rep. Jerry Driscoll if the employee would give up his right to sue and that it must be provided by employer. The employee now has the right to sue. Rep. Driscoll stated that he did not know.

Rep. Carolyn Squires asked Mr. Murphy how many investigators there are in the state. Mr. Murphy stated that there are 1.5 FTE in the Uninsured Employers Unit that are responsible for determining whether the employer has the proper coverage. They get assistance from auditors in the department that identify employers that haven't got insurance. There is twenty auditors that do audits, workers' compensation and state fund audits and uninsured audits.

Rep. Vicki Cocchiarella asked Rep. Driscoll what the chances are that the Legislature could remove the tax in 1991. Rep. Driscoll stated that if we don't find any money, the chances are slim and none.

Rep. Simpkins asked Rep. Driscoll if the tax would go entirely to paying off the debt? Rep. Driscoll stated that the money all goes to one place, the Board of Investments.

Sen. Devlin asked Rep. Driscoll what he foresaw happening in jobs and companies that employ people fees were added. Rep. Driscoll stated that with high wage good jobs, not in the service trade, he predicted mechanization at a faster rate. In smaller companies, the owner would hire less and do more of the work himself, or simply go out of business because they can't afford the rate.

Rep. Whalen asked Mr. Murphy why something isn't being done about the number of investigators checking employer fraud that is being perpetrated on employees? Mr. Murphy stated that the uninsured function has been in existence for sometime, the

finances and penalties that are levied by the uninsured unit is over 400 per year, so the division is pursuing uninsured employers. The statute allows the division to fine and penalize them or order closure notices.

Rep. Pavlovich asked Rep. Driscoll what the 'other sources' were? Rep. Driscoll said there was \$10 million out the general fund and to tax soda pop. Depending on how the school funding comes out, they would make the surcharge effective in July for schools. Money from some investment earnings are needed to keep the rates from going up and to keep the cash flow from going to zero.

Sen. Thomas Keating asked Mr. Murphy if the computer data is good in this area or is there some reason to doubt that the figures are accurate. Mr. Murphy stated that the information that is being provided is accurate.

Closing by Sponsor:

Rep. Jerry Driscoll stated that deficits from \$157 million to \$215 million are possible. Claims examiners, the person that reserves the money for a claim may, in some cases, reserve low. If they think that a claim is only going to cost \$5,000, but it costs \$10,000 or \$15,000, this would create quite a problem. The Legislative Fiscal Analysts Office, was using projections of cash flow that has \$42 million in the bank. The Board of Investments said there is \$29 million in the bank. They were projecting \$92 million in claims paid in FY 89, when in fact it is over \$106 million. On January 1, when the fund becomes a division, it is no longer completely immune from lawsuits.

HEARING ON HOUSE BILL 54

Presentation and Opening Statement by Sponsor:

Rep. Francis Bardanoue stated that all those that had testified in favor of putting a new tax on employees would testify in opposition to this bill. He was distressed to discover the condition of the Workers' Compensation program.

Previous sessions have recognized the need for actuaries for the fund and if past legislators had not begun the process of dealing with the problem the fund would be bankrupt today. Not long ago the deficit was \$50 million, a year later it was \$100 million, and now it is more than \$200 million - almost inconceivable that it could change so rapidly. There is a crisis. This issue, the workers' compensation shortfall, is far more serious than the foundation program. If no solution is found for the foundation program, not many people would be hurt. Education will go on as it is now. There will be seven men with black robes that will be unhappy with the legislature, but there will be no crisis in Montana education. But there

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DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS

COMMITTEE

DATE 6/27/89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE COCCHIARELLA	✓		
REPRESENTATIVE COMPTON	✓		
REPRESENTATIVE DRISCOLL	✓		
REPRESENTATIVE GLASER		✓	
REPRESENTATIVE KILPATRICK	✓		
REPRESENTATIVE LEE	✓		
REPRESENTATIVE O'KEEFE	✓		
REPRESENTATIVE PAVLOVICH	✓		
REPRESENTATIVE RICE	✓		
REPRESENTATIVE SIMPKINS	✓		
REPRESENTATIVE SMITH	✓		
REPRESENTATIVE SQUIRES	✓		
REPRESENTATIVE THOMAS	✓		
REPRESENTATIVE WHALEN	✓		
REPRESENTATIVE McCORMICK, Vice-chair	✓		
REPRESENTATIVE RUSSELL, Chair	✓		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairperson Russell, on June 27, 1989, at 5:55 p.m.

ROLL CALL

Members Present: All with the following exception:

Members Excused: Rep. Glaser

Members Absent: None

Staff Present: Eddy McClure, Legislative Council

Announcements/Discussion:

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor:

Rep. Cobb, District 42, stated that HB 58 appropriates money to the Workers' Compensation Tax account from the Coal Severance Tax Bond Fund. This would enable the unfunded liability to be paid without taxing the employees and employers any more. Interest will be lost from the coal money but the money would be well spent and allow Montana taxpayers to keep a larger portion of their earnings.

Testifying Proponents and Who They Represent:

Rep. Fred Thomas, District 52
Rep. Clyde Smith, District 5
Rep. Jerry Driscoll, District 92

Proponent Testimony:

Rep. Thomas stood in support of this bill.

Rep. Clyde Smith asked that he be placed on record in support of this bill.

Rep. Jerry Driscoll stood in support of HB 58.

Testifying Opponents and Who They Represent:

None

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EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 54

The hearing on House Bill 54 was held on June 27, 1989 at 1:00 p.m.

Motion: Rep. Cocchiarella moved that HB 54 DO PASS.

Discussion: Rep. Driscoll stated that it was his intent to amend this bill into his bill (HB 56). Rep. Smith agreed with Rep. Driscoll that this bill would increase the cost to employers plus add new revenue from the employees and freeze the benefits. This bill would balance out the effects. Rep. Smith stated that if one of the bills passes, both bills should.

Rep. Cocchiarella withdrew her motion.

Rep. Driscoll requested that the committee move to HB 56. Rep. Kilpatrick objected by saying that he thought each bill should be considered separately since members could vote differently on the bills. At the chair's request, Ms McClure explained that even if both bills were passed, the Legislative Council coordinates the bills and that the bills would end up in conference committee. Rep. Driscoll was concerned that the Senate would kill one of the bills and pass the other.

Rep. Kilpatrick moved DO PASS on HB 54.

Rep. Driscoll stated that both bills should be tied together. Rep. Smith agreed with Rep. Driscoll. If the bills are not tied together, then neither one of them will pass.

Rep. Pavlovich stated that he was going to vote against this bill. He did not want the burden placed on the employee but felt that there was middle ground and also felt that the two bills should be tied together.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Roll call vote was taken. The motion CARRIED 10 to 6. HB 54 will be recommended DO PASS.

DISPOSITION OF HOUSE BILL 56

The hearing on House Bill 56 was held on June 27, 1989 at 1:00 p.m.

Motion: Rep. Driscoll moved HB 56 Do Pass.

Discussion: Rep. Driscoll explained amendments that he had previously written. The bill as originally written had the

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Department of Revenue collecting the tax and the duty should rest with the Workers' Comp. Division as are all other Workers' Comp. taxes.

Amendments, Discussion, and Votes: Rep. Driscoll moved the amendment. Voice vote was taken. The motion CARRIED unanimously.

Rep. Whalen offered an amendment that would eliminate the 3 percent employee payroll tax. Rep. Pavlovich asked Rep. Whalen to clarify that the only thing remaining in the bill would be the benefits' freeze. Rep. Whalen responded affirmatively because he felt that passage of this bill would be creating more problems than it would be solving. Rep. Thomas spoke against the amendment stating he will move to further amend the bill. Rep. Driscoll opposed the motion because those affected by the freeze will suffer far more than those forced into paying into the fund. Rep. Smith agreed with Rep. Driscoll - if the money is not raised in this manner it has to be found elsewhere. Rep. Whalen expressed his concern with future litigation if the committee voted to tax employees for this purpose.

Ms. McClure stated that there has never been any litigation on the Montana Constitution, Article 2, Section 16. The court system may or may not find it unconstitutional. She felt Rep. Whalen was correct in stating that it is open to litigation. The State of Washington is the only other state that taxes employees and, to her knowledge, their constitution is not similar to Montana's.

Rep. Smith stated that we are not only dealing with the Workers' Comp. premium but also with a tax for the unfunded liability. Rep. Whalen would make that argument when representing an employer after a lawsuit is filed. If the Supreme Court were to decide that this was unconstitutional it could allow lawsuits directly against employers to continue or require a payback to employees.

A roll call vote was taken on Rep. Whalen's amendment. The motion FAILED on a tie vote (8-8).

Rep. Driscoll moved to amend page 14, line 21 by changing the ".3" to ".45" (4.5% on employers and 3% on employees - which would amend the Bardanouve bill into this bill).

Rep. Smith stated that if this bill is to pass then this is the only way that it will pass.

Ms. McClure explained the amendment to the committee stating that the changes would be made in page 14, line 21 plus some changes in the title.

Roll call vote was taken. The motion CARRIED 13-3.

Rep. Driscoll offered a technical amendment. Ms. McClure explained that this amendment was inadvertently omitted by the drafter. You must have something in the bill to supersede present statutes and this amendment would provide for that.

Rep. Driscoll moved the technical amendment. Voice vote was taken. The motion to amend CARRIED unanimously.

Rep. Driscoll moved HB 56 Do Pass As Amended.

Rep. Pavlovich asked Ms. McClure if there was a possibility of taxes being increased because of the amendments. Ms. McClure responded that the same statute was being amended so it would not be "doubling" the tax to employers.

Rep. Kilpatrick stated that there is no way that this additional tax should be added to the employees' tax burden. He did not think it should be combined with Rep. Bardanouve's bill. There must be another way that the problem can be solved.

Rep. Driscoll stated that this bill would cost the average weekly wage earner \$48 per year. The income tax surcharge will cost them considerably more. The money has to be found somewhere and there are not many alternatives - it must be fixed or injured workers will not continue to be paid.

Rep. Rice asked Rep. Driscoll what other alternatives there might be to solve this problem such as taking \$20 million from the General Fund. Rep. Driscoll responded that his amendment provided for \$10 million from the General Fund. \$20 million is possible but the problem will still be there in 1991 because there is no ongoing source of revenue to provide the funds needed. It would be a short term fix to the problem but it is possible.

Rep. Cocchiarella felt the same as Rep. Kilpatrick but she will vote for this bill in committee so the bill will reach the floor of the House to be voted on by the full House. She will vote against the bill in the House.

Rep. Lee did not think a series of band-aid fixes is the solution to the problem. It simply postpones the day of reckoning and probably increases the problem. The real solution is to correct the deficiencies in the program and the system that are driving the unfunded liabilities. It is too easy to put on taxes but generally they prove very difficult to remove.

Rep. Thomas re-emphasized that this bill should be passed to the full House because effective January 1 the system will be changed in Montana. This is a very critical time in Montana and this Special Session is a pivotal point for many people in Montana and these issues should be dealt with now.

Rep. Driscoll stated that this bill will be easy to repeal after the unfunded liability is paid. The bill provides for a sunset date of July 1, 1991 so unless a bill is passed next session this tax will be removed at that time.

Rep. Russell stated that she cannot support an employee's tax. She voted incorrectly and requested permission of the committee to change her vote on Rep. Whalen's amendments. Rep. Driscoll objected because it would change the bill by allowing Rep. Whalen's amendment. Rep. Smith also objected.

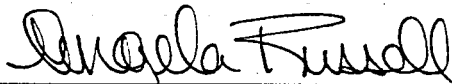
Rep. Whalen offered the amendments again to allow another vote. Rep. Russell withdrew her request.

Rep. Russell called the question for Do Pass As Amended.

Recommendation and Vote: Roll call vote was taken resulting in a tie vote (8-8). The measure FAILED.

ADJOURNMENT

Adjournment At: 7:05 p.m.


Rep. Angela Russell, Chair

AR/td

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DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS

COMMITTEE

DATE 6-27-89 late

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE COCCHIARELLA	X		
REPRESENTATIVE COMPTON	X		
REPRESENTATIVE DRISCOLL	X		
REPRESENTATIVE GLASER			
REPRESENTATIVE KILPATRICK	X		
REPRESENTATIVE LEE	X		
REPRESENTATIVE O'KEEFE	X		
REPRESENTATIVE PAVLOVICH	X		
REPRESENTATIVE RICE	X		
REPRESENTATIVE SIMPKINS	X		
REPRESENTATIVE SMITH	X		
REPRESENTATIVE SQUIRES	X		
REPRESENTATIVE THOMAS	X		
REPRESENTATIVE WHALEN	X		
REPRESENTATIVE McCORMICK, Vice-chair	X		
REPRESENTATIVE RUSSELL, Chair	X		

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89 BILL NO. HB 56 *Whalen* NUMBER 3

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON		X
REPRESENTATIVE DRISCOLL		X
REPRESENTATIVE GLASER		X
REPRESENTATIVE KILPATRICK	X	
REPRESENTATIVE LEE	X	
REPRESENTATIVE O'KEEFE	X	
REPRESENTATIVE PAVLOVICH		X
REPRESENTATIVE RICE	X	
REPRESENTATIVE SIMPKINS		X
REPRESENTATIVE SMITH		X
REPRESENTATIVE SQUIRES	X	
REPRESENTATIVE THOMAS		X
REPRESENTATIVE WHALEN	X	
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair		X
TALLY	<u>8</u>	<u>8</u>

Tennis Doe SECRETARY CHAIRMAN

MOTION: Whalen amendment - taking out .3% tax
on employees

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89 BILL NO. HB 56 - Driscoll amendment NUMBER #4

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON	X	
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK		X
REPRESENTATIVE LEE	X	
REPRESENTATIVE O'KEEFE	X	
REPRESENTATIVE PAVLOVICH	X	
REPRESENTATIVE RICE		X
REPRESENTATIVE SIMPKINS	X	
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES	X	
REPRESENTATIVE THOMAS	X	
REPRESENTATIVE WHALEN		X
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair	X	

TALLY

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Tennis Dool
SECRETARY

CHAIRMAN

MOTION: Driscoll amendment to incorporate
HB 54 provisions

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89

BILL NO. HB 56

NUMBER #5

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON	X	
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK		X
REPRESENTATIVE LEE		X
REPRESENTATIVE O'KEEFE		X
REPRESENTATIVE PAVLOVICH	X	
REPRESENTATIVE RICE		X
REPRESENTATIVE SIMPKINS	X	
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES		X
REPRESENTATIVE THOMAS	X	
REPRESENTATIVE WHALEN		X
REPRESENTATIVE McCORMICK, Vice-chair		X
REPRESENTATIVE RUSSELL, Chair		X

TALLY

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Pam Dorc
SECRETARY

CHAIRMAN

MOTION: Driscoll amendments with HB 56

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairman Russell, on June 28, 1989, at 1:10 p.m.

ROLL CALL

Members Present: All with the following exception:

Members Excused: Rep. Simpkins

Members Absent: None

Staff Present: Eddy McClure, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 62

Presentation and Opening Statement by Sponsor:

Rep. Smith, District 5, stated that this is a bill to study the problems involved in Workers' Compensation which will be held over the interim and a report made to the 52nd Legislature.

Testifying Proponents and Who They Represent:

Mike Sherwood, Montana Trial Lawyers Assn., Missoula
Don Judge, AFL-CIO

Proponent Testimony:

Mr. Sherwood said his organization supports this study and had spoken with Rep. Smith about perhaps having members of the general public on the study but Rep. Smith said the bill would be sounder if it was limited to the Legislature and personnel. One of the most frustrating problems is actuarial projections which seem to be changing daily. Mr. Seacat, or someone in his office, had said in a hearing recently that they are not in a position to verify that the proposed additional taxes on employers and taxes on employees could affect Montanans' lifestyle but could seriously affect their attitude toward this body. He would propose instead that House Bill 62 be passed with an amendment. The amendment would include Section 39-71-2304 which is not referenced in this bill. This is the section that requires the division to set actuarially sound rates both in different classifications and the overall determination of rate classification and that an additional

taxation and cannot be used twice, so he would recommend the bill be tabled.

Recommendation and Vote: The motion to TABLE CARRIED with Rep. Kilpatrick opposing.

RECONSIDERATION OF HOUSE BILL 56

Motion: Rep. Pavlovich moved to reconsider House Bill 56.

Recommendation and Vote: The motion CARRIED. (Hand vote) 9 members voting aye, 7 voting no.

DISPOSITION OF HOUSE BILL 56

Motion: Rep. Pavlovich moved HB 56 Do Pass As Amended.
(Amendments were put in at a prior meeting)

Discussion: Rep. Rice said he had voted against this bill yesterday and will vote against it today as it still stands because he would not vote to put a tax on the workers of this state just because the state can't run an insurance company. He would offer an amendment to take \$20 million of the general fund as an appropriation in this bill to cover the deficit so rates are not increased as of July 1. Even though there is a general fund balance of more than expected, he had not ran into many who thought the money would be there for the \$20 million. His rationale for offering the amendment is that workers' compensation does not have any other source of revenue, other than premiums to cover this particular problem. Some say that is needed for education, but the educational sources do have other sources of revenue.

Rep. Lee asked if at the same time he was removing the 3/10 if a percent? Rep. Rice said he would remove the 3/10 of a percent and put in \$20 million.

Rep. Thomas said we are leaving the .045 in then? Rep. Pavlovich suggested we take it all out. It was pointed out that the .045 has been in effect since '87 and it is supposed to sunset in '91.

Motion: Rep. Rice moved to delete the 0.3 on employees, leaving the status of the law as it is now for employers, and we are plugging in an appropriation for \$20 million.

Rep. O'Keefe said he would oppose the amendment and said he could see this motion passing and the bill passing here and the attempt made on the floor to take the appropriation out of the bill, and reinserting the 3/10 of a percent employee tax. He wondered if anyone on this committee is planning on doing that with this motion.

Rep. Smith explained what was happening, and said what this would

amount to is starting out with a new bill with \$20 million out of the general fund for Workers' Comp.

Rep. Lee asked how important the rate freeze is over the long haul? Rep. Smith answered the freeze was holding the employee tax at \$12 million and the employers tax was \$6 million or \$6.5 million and they need \$20 million. The 22% rate increase will raise \$19 million over the biennium.

Rep. Squires asked if it would be the endeavor of both sides to solve the problem.

Rep. O'Keefe asked Rep. Smith if he understood that Rep. Rice's motion to withdraw the freeze. Rep. Smith said yes.

Rep. Kilpatrick remarked that they are going to have trouble getting the \$20 million. He asked if it would be better just to come out and say they want \$20 million to replace this.

Discussion was held on the various bills that were presented and proposed solutions in them.

Chairman Russell asked Ms. McClure to clarify the amendment. Ms. McClure said basically we were gutting the bill. They are going back to 3/10 of 1% on the employer, like there was no action yesterday; taking off the 3/10% on the employee, taking off the freeze and the benefits, and putting in \$20 million from the general fund.

Recommendation: Vote was taken on the Rice amendment. The motion PASSED. Rep. O'Keefe abstained from voting.

Motion: Rep. Smith moved HB 56, Do Pass As Amended.

Recommendation and Vote: Vote was taken. The motion CARRIED with Rep. O'Keefe voting no.

RECONSIDERATION OF HOUSE BILL 57

Motion: Rep. Compton moved HB 57 be taken off the table.

Recommendation: The motion CARRIED with 11 members voting yes and 3 members voting no.

DISPOSITION OF HOUSE BILL 57

Motion: Rep. Pavlovich moved HB 57 Do Pass As Amended.

Discussion: Rep. Pavlovich said he would like to change the bill from 5 cents to 3 cents. The 3 cents would bring in approximately \$11 a year which is \$22 million over the biennium.

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DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS

COMMITTEE

DATE 6-28-89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE COCCHIARELLA	X		
REPRESENTATIVE COMPTON	X		
REPRESENTATIVE DRISCOLL	X		
REPRESENTATIVE GLASER	X		
REPRESENTATIVE KILPATRICK	X		
REPRESENTATIVE LEE	X		
REPRESENTATIVE O'KEEFE	X		
REPRESENTATIVE PAVLOVICH	X		
REPRESENTATIVE RICE	X		
REPRESENTATIVE SIMPKINS			
REPRESENTATIVE SMITH	X		
REPRESENTATIVE SQUIRES	X		
REPRESENTATIVE THOMAS	X		
REPRESENTATIVE WHALEN	X		
REPRESENTATIVE McCORMICK, Vice-chair	X		
REPRESENTATIVE RUSSELL, Chair	X		

Juni
4/29/89
8:15
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STANDING COMMITTEE REPORT

"An Act to Revise the Workers' Compensation Act
to Continue the Freeze on Maximum Weekly Benefits"

June 28, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Labor report that HOUSE
BILL 56 (first reading copy -- white) do pass as amended.

Signed: Angela Russell
Angela Russell, Chairman

And, that such amendments read:

1. Title, lines 4 through 10

Following: "TO" on line 4

Strike: remainder of line 4 through "TAX," on line 10

Insert: "APPROPRIATE \$20 MILLION FROM THE GENERAL FUND"

2. Title, lines 12 and 13.

Following: "AMENDING" on line 12

Strike: remainder of line 12 through "THROUGH" on line 13

Insert: "SECTION"

3. Title, lines 14 and 15.

Following: first "DATE"

Strike: remainder of line 14 through "DATE" on line 15

4. Page 1, line 18 through page 16, line 7.

Strike: sections 1 through 9 in their entirety

Renumber: subsequent sections

5. Page 16, lines 10 through 12.

Following: "compensation" on line 10

Strike: "payroll and wage"

Following: "account." on line 11

Insert: "(1)"

Following: "compensation" on line 11

Strike: "payroll and wage" on line 12

6. Page 16, line 13.

Following: "fund."

Insert: "(2)"

Strike: first "and"

83/Be

6/29/89
8:15 PM
394

June 29, 1989
Page 2 of 2

Insert: ", "

7. Page 16, line 14.

Following: "tax"

Insert: ", and revenue appropriated to the account under [section 2]"

8. Page 16, line 19.

Following: line 18

Insert: "NEW SECTION. Section 2. Appropriation. There is appropriated \$20 million from the general fund to the workers' compensation tax account in the state special revenue fund for fiscal year 1990 to be used to reduce the unfunded liability in the state compensation mutual insurance fund."

Renumber: subsequent sections

9. Page 16, lines 19 through 21.

Strike: section 11 in its entirety

10. Page 17, lines 3 through 6.

Strike: section 13 in its entirety

Renumber: subsequent section

11. Page 17, lines 7 thorough 9.

Strike: ", " on line 7 through "are" on line 9

Insert: "is"

12. Page 17, line 10.

Strike: "of" through "act]"

13. Page 17, lines 11 and 12.

Strike: section 15 in its entirety

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AMENDMENTS H.B. 56
SPECIAL SESSION 6/89
INTRODUCED BILL (WHITE COPY)

1. Page 12, line 13 through line 14.
Following: "2-15-1701"
Strike: "revenue provided for in 2-15-1301."
Insert: "labor and industry provided for in 2-
15-1701."

STATUS SHEET

1st Special 6/1/1989 LEGISLATIVE SESSION

COMMITTEE ON Appropriations

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
HB 44	6-21-89	6-22, 21	7-6			7-6			
RB 46	6-22-89	6-26, 27	6-27	6-27					
HB 64	7-6-89	7-7, 11	7-11			7-11			
HB 56	7-6-89	7-7	7-7			7-7			
HB 15	6-19-89	6-19	6-19	6-19					
HB 50	7-7-89	—	—						

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON HOUSE APPROPRIATIONS

Call to Order: By Chairman Bardanouve, on July 7, 1989, at 8 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Rippingale, LFA

Announcements/Discussion: None

HEARING ON HOUSE BILL 64

AN ACT SUPPLEMENTING THE APPROPRIATION CONTAINED IN HOUSE BILL NO. 15 OF THE FIRST SPECIAL SESSION TO PROVIDE MONEY FOR THE CONTINUED OPERATION OF THE FIRST SPECIAL SESSION OF THE FIFTY-FIRST LEGISLATURE, CONVENING JUNE 19, 1989, AND FOR OTHER RELATED PURPOSES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Representative Thoft asked if we can deal with the feed bill without suspension of the rules.

Representative Spaeth said we cannot deal with the feed bill without suspension of the rules, and if that is a problem we should wait until after 9 a.m. we can suspend the rules and come back down.

Representative Thoft said he believed under the previous feed bill for the regular session we don't need this feed bill, it can be a continuation of spending and he asked Mrs. Rippingale to address that issue. Mrs. Rippingale said there is between \$400,000 and \$500,000 left from the feed bill from the regular session which appears to be unobligated and could be used to operate this special session. She said the title of that bill is very broad, it just says for the operation of the 51st Legislature and we think that money is available for use with no action other than the decision of the leadership to do so.

Chairman Bardanouve asked what formal procedure we have to have to use this money. He asked if we just do it, and Mrs. Rippingale answered, just do it. Chairman Bardanouve asked, without any legislation or any formality? Mrs. Rippingale answered it appears the Legislation has been enacted and is

8A

in effect. She said based on the work Clayton did with the council yesterday, there is approximately \$470,000 unobligated after allowing for expenses the Council was aware of that might be accrued, and allowing for presession to start the next session. She said there is one other thing that bill did allow, if any money was left over it could be spent on computer purchases. She said, if you spend some of this money, there will be less spent on computers.

Motion: Motion by Representative Thoft that no action be taken on the feed bill, to just continue it.

Substitute Motion: Substitute Motion by Representative Spaeth to table House Bill 64 until after the session today.

Discussion: Representative Marks asked what happens after today and Rep. Spaeth said it would just be tabled until after the first session this morning. Rep. Bardanouve said we would have a recess of the Appropriation Committee and come back later on today.

Recommendation and Vote: The substitute motion was voted, roll call vote, passed, 11 members voting yes, 8 members voting no.

HEARING ON HOUSE BILL 56

AN ACT TO REVISE THE WORKERS' COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO IMPOSE A 0.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO THE CURRENT EMPLOYER PAYROLL TAX, TO REDUCE THE UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND; AMENDING SECTIONS 39-71-701 THROUGH 39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH 39-71-2504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE.

Chairman Bardanouve said we have had House Bill 56 referred from the floor to our committee which will pump \$20 million into Workers' Comp. He said the whole session we have sat here and argued about bills, and killed bill after bill and the total that we killed isn't as much as this one bill. He said he could not say it was not necessary, but it is only a down payment, in '91 we will be back with a big chunk of money.

Presentation and Opening Statement by Sponsor:

Representative Driscoll, House District 92, Billings and Chief Sponsor of House Bill 56 said this is a very important piece of legislation to stop the rate increases on July 1. He said this money is already spent and you have to pay off the

debt. He said there is at least \$215 million in debt out there, and until we get an actuary--the Lum Owens bill has a study committee to see what to do with the whole mess. He said the states around us subsidize their workmens' comp. He said the freezes that were put in on the floor of the House save \$3 million a year, or \$6 million over the biennium; the \$20 million appropriation could come from Senator Crippen's bill and the accelerated collections they are holding which to him was far more acceptable than building new buildings when the state is in debt. He said this is a one time expenditure, and in '91 someone will have to find a source of money to pay off \$215 million. To separation of the fund from the Division has already started, they are working on that and it should be accomplished by July 1, but then you will have an insurance company that is insolvent from the beginning. He said if they were a private company the state auditor would shut them down. He said if you are going to have a state fund that is going to work you are going to have to put in some money for the old debt, whether we use general fund, a different tax, or whatever, somebody has to pay it. He said, if you pay it off with rates, then you will have the same complaint you have been hearing for years, that our rates are substantially higher than surrounding states.

Testifying Proponents and Who They Represent:

Don Judge, Montana State AFL-CIO
Jim Tutwiler, Montana Chamber of Commerce
Mike Micone, Workers' Comp

Proponent Testimony:

Mr. Judge said the AFL-CIO is not overly enamored with this bill, but it is better than the employee payroll tax, which we felt had some constitutional problems. He said they are concerned with the figures and the deficit as it sits, there doesn't seem to be much agreement between the Workers' Comp Division and the Legislative Auditors office on the necessity for raising the rates back to what the original law says, that you shall run the insurance agency actuarially sound; the deficit that is out there is at \$215 million. When you left the regular session it was a \$157 million so over the past 2 months it has raised \$58 million. He said they did support the Lum Owens bill to have an independent actuarial audit study of the system so we can try to get the final numbers. He said he would like to point out that the deficit is not a deficit that was created since 1987 when all the major changes were made in the act. He said if we were operating the system on the '87 law, our rate would be more than sufficient to pay for the ongoing expenditure in the fund. He said the problem is that we have about 4,000 cases outstanding from pre 1987 and those cases are now coming due and were all challenge cases; they have gone through the courts or some other process to try to reach

settlement. He said those cases are now coming due and that is why the latest actuarial projection is that we would begin to pay those cases off at an accelerated basis. He said one of the projections was to pay off just over \$60 million of those cases in this current fiscal year. He said most of that money will be paid to the old cases, some of it to the new ongoing cases. He said in Wyoming they subsidize with general fund and their deficit funding is approximately \$1 million a month. He said in Idaho they have set artificial rates. Teachers in Montana, we pay something like 39 cents on each \$100 in wages; in Idaho they set an artificial rate which may be \$2 or \$3 or \$4 for each \$100 in wages so the lower paid industries actually subsidize the higher wage industries. He said this is a stop gap measure to hold down the rate increases scheduled to go into effect about 3 days ago, it will roll those rates back, get us through 1990, and then in July of 1990 the rates may have to go up. He said you will be back to deal with the situation, but in the mean time they hope to be working with the Lum Owens bill to study the whole system; to talk about a better way to administer that system, to make the employers more responsible, giving better rates to those that have safety records, and figure out different ways to set those rates.

Mr. Tutwiller said they support the bill and also share in the conviction that it is a major problem in the state of Montana. He said there have been many legislators and many people who have worked very hard on this. He said there had been 28 bills during the session dealing with workers' compensation. He said they are concerned on the employer business side in Montana, we know employers are already burdened with a 3/10 of 1% payroll tax and very nearly avoided an increase of that. He said they are also aware there are reforms in place and gains made in the past session, and felt claims would be handled in some better fashion in the future. He said some refer to the soaring rates of accidents in the state, and said they felt this was not necessarily true, some have raised, but other categories have decreased. He said another factor is the medical services which are inflating at a much higher rate than the over all inflation, and that affects Workers' Comp. He said he had read a survey in the Wall Street Journal the average rate of inflation for medical services in America for the past 15 years has averaged 12%.

Mr. Micone said the Department does not take a position on the bill. He said they did not ask for the legislation to allocate money to the Division. He said it was their position that the Legislature had mandated that Workers' Comp be operated actuarially sound and the rates were put in place July 1. He said it is the Legislature's decision to put the rates back, but we do support any efforts you have to help out in this situation.

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Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Representative Thoft asked Representative Driscoll if he had any objection to incorporating some of the "Crippen language" in the bill, using accelerated tax preparations and Rep. Driscoll said absolutely not, he wanted to get the bill moving since the Senate bill was hung up on second reading and wouldn't move it.

Representative Marks asked if we coordinate the language in this bill to provide that, if in the end the Crippen bill did not pass, this bill would not be effective. Rep. Thoft said that was not needed, we could put the language in this bill and they can do whatever they like with the Crippen bill. Rep. Marks explained that the Crippen bill had other topics in it.

Representative Driscoll said the Crippen bill took the accelerated withholding which is around \$50 million and put it into a university system bonding buildings and the senate committee took \$20 million of that and put it into the workers' comp fund, so there would be less for building. He said he thought the Senate was willing to put the money into the workers' comp and did not know what the hang up was.

Representative Thoft asked what they accelerated on and Rep. Driscoll said everybody under \$400 a quarter. Rep. Thoft asked how much it would be if they just took it on the corporations part, and was told about \$20 million.

Chairman Bardanouve said he had heard you needed about \$19 million plus to keep this raise from going into effect. He said this would be \$20 million plus \$3 million. Rep. Driscoll said it would be \$3 million next year, but if they raise the rates they may stay in effect for 2 years, and if they did that would be \$38 million. It would depend on what happened in July of '90 whether or not the accident ratio etc, changed. He said they would have to do an actuary study for last year to see how the rates compared to risk. He said if they raised the rates 22% in July of this year they didn't think they would have to raise rates, but they did not say they would roll them back, and actually we would still be short of what the rate increase would bring in over the 2 years. He said they are talking about \$38 million over the 2 years. He said the Montana Loggers Association and the Montana Motors Association have both instituted safety programs. He said the Loggers Assn. has brought their ratio down to 38% and the truckers can do the same.

Representative Thoft asked if it would create a problem if we had \$20 million of revenue and it only took \$17 million and Rep. Driscoll said it goes into the fund and they invest it in the Board of Investments. He said they have \$29 million over there now but because the law says they must run a division actuarially sound, they have to increase the revenue by \$20 million to be actuarially sound. He said they aren't going to spend all that money as soon as they get it, it will be over at the Board of Investments and over the biennium, hopefully, they wouldn't draw down on that balance more than \$6 million or \$9 million, so they would have \$49 million when the money got in there and they would draw it down 6.

Representative Bardanouve asked about the amendments prior to this hearing and what they actually do. Rep. Driscoll said they freeze all medical payments, hospital, doctor, chiropractor, everybody until '91. He said they have been frozen since '87 and it also freeze the maximum temporary total at 299 and if it don't freeze it goes to 318. He said it is the state's average weekly wage since '87. Rep. Bardanouve asked if this is a four year freeze and was told yes. Rep. Driscoll said it is the temporary total of permanent partial, the weekly payment on deaths, indemnity award etc. He said these are the people at the top, the people who do not make the maximum never were frozen. If a person had a job and was making \$300 a week, they get 2/3 of what their gross is. He said if you were injured you would get \$200 a week for lost time. He said just the maximum was frozen and that is people who were making \$450 a week prior to the injury, and they get \$299 a week under the maximum benefit.

Representative Bardanouve asked about the medical people, and if they were protesting the freezes. Rep. Driscoll said he didn't know, it is not like medicare, they pay considerably better than medicare, and the Doctors are accepting that. He said they have a schedule and are frozen according to the schedule of '87.

Representative Swysgood said the rates went up from the 299 to 318 July 1. He said if this bill passes and goes into effect we will still have to pay the 318 until the effective date, or is it retroactive? Rep. Driscoll said he had asked Sweeney with the division and he didn't think we could make it retroactive, so any injuries that happen between July 1 and the effective date of this act, if he is correct, those people would get \$318 a week, and injuries after that date would get \$299. He said we are talking about 15 days and there are 9,000 accidents in this state per year and he didn't know how many accidents they might be talking about. He said he thought it was the Willis decision in the Supreme Court where they ruled you can't make that retroactive.

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Representative Swysgood said, even with that 15 day period we don't know what the accident rate would be and they will have the money either through the general fund or the accelerated tax. Rep. Driscoll said he did not know how fast the money comes in, but there is \$29 million in the bank now, and to be actuarially sound they should have about \$240 million in the bank. He said if you put \$20 million into the account they also get the investment earnings credited to workers' comp instead of to the general fund, or wherever else it might be. He said the \$20 million this biennium, influx of new money, the \$6 million in freezes and the investment earnings on the \$20 million will be what they get. In answer to a question from Rep. Bardanoue he was told the interest rate is 7%.

Representative Grinde asked how he felt about Senator Williams concept of paying them the minimum. Rep. Driscoll said he felt it was all right, but Senator Williams went too high. He said our low rate in the state is 36 or 37 cents and that includes most of the school employees. He was going to raise that to \$4, and that is a pretty high increase. He suggested that a \$1 increase might be more realistic. He said the new board that will run the division will have to make decisions like that. He said with the new board, when it gets separated from the division and if we provide the money to pay off the old debt, there will be a lot less political meddling in the whole system. He said when you have employers that are getting a \$27,000 increase in payments to workers' comp, it is real hard to negotiate a raise for the workers.

Representative Grinde said in the '87 session we enacted a bill on this, and although it has only been a couple of years, is it working? Rep. Driscoll said George Wood went with a self insurers association and told him they only have 20 months of data, but he is guessing a 25% savings and the division is also saving on new cases. He said there were some deals made, the rates were a little low at that time, plus we had this debt. They are using part of that savings on the '87 law to pay off old debts and keeping the rates artificially high, and part of this 22% they want to put in, 7.7% of that is to pay off old debt, so you would have a 7.7% rate increase projected out 80 years to pay the debt, plus the savings of 315.

Representative Cody said, this \$20 million we are talking about as an infusion of money into the system is just until the '91 session and then reviews the problems? Rep. Driscoll said they keep the money, it just goes to their account. He said the money would be invested by the Board of Investments for them and the interest earnings credited back to their account. He said it gets them into a positive cash flow and actuarially sound until '91. He said if the accident rates go up, we will have trouble, but if the loss ratio comes down to 80% they would be in great shape. He said we have

to work to get the loss ration down, last year it was 88% and he has seen projections from 85% to 90%.

Representative Menahan said, we are \$215 million down now, and that is an obligation we have out there. He asked how high he felt that would go, and asked, what about \$300 million? Rep. Driscoll said there are two constitutional challenges to the law we passed in '87. The Supreme Court ruled against the Division on both of those and so I have no idea what the debt might be.

Representative Menahan said there is about \$480 million in a coal tax fund and an obligation here probably equal to that amount. He said when they came here they heard there was \$41 million in the treasury, we are spending \$20 million today, and asked if the financial experts could explain where the government was at and why we should be giving all the tax breaks. Chairman Bardanoue said apparently we like to pass bills and mentioned the retirement bill that cost about \$6 million. Rep. Driscoll said when we left in April the ending fund balance was projected to be about \$20 million and we come back and it is \$56 million. He said Rep. Rice asked in committee where all the money came from? He said we estimated low, the price of oil went up, revenue collections went up, so we are still pretty close.

Representative Marks said, if these rate increases, which are scheduled to go into effect July 1, take place, isn't the fund very likely to lose the market here? Rep. Driscoll said it probably will, and will make the situation worse. He said they are projecting 51% of the market share and an accident rate on about 88 or 90%, and if you lose the market share, especially on a big employer, you will lose dollars that are helping to run the system.

Chairman Bardanoue said he felt we had to put some money into this, it is a bad situation, and is not a proper cost of operating the government, it is insurance for a segment of our economic base. He said he had introduced a bill that put some of the pain on all segments of Montana industry, a very conservative raise, but it would raise about \$3 million a year. He said he felt industry should share some of the pain. He said the thing that concerns him is what we do with all the other bills. He said the committee had sat there day after day and the Governor had vetoed bills saying we can't afford the programs, but we can afford an industry with a \$20 million infusion. He said it really bothers him that we cannot use money to operate other things when this is really not a part of operating government, but a part of an insurance industry and a cost of doing business in Montana, and it is dumped on the Legislature.

Closing by Sponsor:

Representative Driscoll said what you are doing is keeping the

rate of increase on safe employers from going into effect. Unsafe employers will still get a rate increase, class codes will still go up. He explained that the Loggers got a 19% raise because they had instituted and spent a lot of money putting safety programs in and brought their loss ratio down to 38% in the past 2 years, but they need 3 or 4 years to set the class code. He said if they don't need the 22%, if we get the \$20 million, they will not get a rate increase, and they will see some fruits of their spending for safety. He said for certain class codes where there are no safety programs they are going to get a raise, plus the mod factor will go up for the unsafe employer, and they will get an additional raise on top of that. He said the way the class codes work is that if you are hurting people and have no safety programs, the rate is supposed to go so high you are out of business. He said, if you are safe, you should be rewarded, and he felt the class code works but the mod factor does not change fast enough.

Representative Thoft said he would like to amend the bill, and he did not have any language drafted but Judy could draft it, to use accelerated corporate income tax to fund the bill. He said the reason he was doing it was because it would make a clean bill out of it and the Senate could adjust their bill however they saw fit.

Discussion was held on incorporating the amendment in the Senate bill, authority to accelerate the corporate income tax, etc. and that this bill would give more incentive to the Senate to pass out Crippen's bill. There was discussion on the legality of incorporating it, and Mrs. Rippingale said there are a lot of bills introduced with the same subject, and many topics in them. She said she would have a hard time looking at this bill, after seeing the other bills this session, and saying you can't do it. She said the council lawyers might say you can't, but the bills they have written cover everything.

Representative Spaeth suggesting tabling the bill and having Judy and the Council check this out, and come back with it after we meet on the floor today. It was agreed by the committee to explore the amendment and recess to the call of the chair.

Recess at 8:55 a.m. Readjournment at 4:15 p.m. Roll call was taken with Representative Iverson being absent, all remaining Representatives were present, Mr. Wolcott staffed the meeting.

FURTHER CONSIDERATION OF HOUSE BILL 56

Representative Thoft presented a proposed amendment, EXHIBIT 1 and the Council was not present to explain the amendment and exactly what it did, and no one had the amendment long enough to explain it.

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Representative Bradley presented a proposed amendment EXHIBIT 2 for the committee to look at.

Mr. Wolcott said Rep. Thoft's amendment incorporates Senate Bill 14 into House Bill 56 and said he could give his understanding of how it works. He said it coordinates the accelerated corporate taxes in Senate Bill 14 into House Bill 56. He said the one Rep. Bradley handed out did the same thing. He said his understanding is that during the biennium accelerated corporate taxes will generate \$15.5 million and House Bill 56 requires about \$20 million. He said 25% of the corporate license tax goes to the Foundation Program, so that is about \$5 million, but because the Foundation Program already has general fund in it, it will free up \$5 million in general fund and there will still be \$20 million available in the bill to fund what is in House Bill 56 but only \$15.5 comes from corporate taxes.

Representative Bardanoue said because you put more money into the foundation program, it will free up more general fund money.

Representative Driscoll said Senate Bill 14 does not put any money into the general fund. It puts \$20 million into the Workers' Comp account. It accelerates corporate withholding and the way it is written now it is \$20 million for Workers' Comp and the rest to the general fund.

Representative Marks said he had some confusion. He said we are discussing two different amendments and the short one (EXHIBIT 2), refers specifically to Senate Bill 14 which has a much broader application of advanced revenue than the amendment of Rep. Thoft.

DISPOSITION OF HOUSE BILL 56

Amendments, Discussion, and Votes: Motion by Representative Thoft to adopt his amendment, EXHIBIT 1.

Representative Thoft said he felt this amendment should be passed, he said we would then have a clean bill and be able to do what they and Representative Driscoll want to do, and will leave out a lot of taxpayers that are not subject to this kind of taxation. He said the corporate people already pay the federal tax on this basis, so there should be no problem there. He said he did not know what the status of the Senate bill is or if it will get to the House.

Representative Cody said we know how much Senate Bill 14 raises, but asked Rep. Thoft if his bill raised the same amount. Rep. Thoft answered that it accelerates the tax on corporations in excess of \$5,000 and it raises \$15 million for Workers' Comp but it also raises \$5 million for the foundation program which would go to the general fund and

release \$5 million which we can use to fund Workers' Comp.

Substitute Motion: Representative Bradley moved a substitute motion to adopt her amendment, EXHIBIT 2.

Representative Bradley said it is a coordinating clause that ties this bill to Senator Crippen's bill which is out of committee and waiting for final action. She said it is her understanding they are going to take it up and she thought this might be the prod to push them into it. She said she felt they should do this for several reasons. She said she felt it would be nice to go for something with a one shot sum of money that is an investment instead of flushing the money down permanently where we will never see it again. She said the rest of this money went to Higher Education buildings, and \$20 million was taken off the top for Workers' Comp.

Representative Bardanouve asked what sort of condition that Senate bill was in and Rep. Bradley said it is on the floor of the Senate, it has come out of committee and everyone agreed that sum of money would be taken out for Workers' Comp. Rep. Driscoll said Senator Crippen had made a motion to put it on second reading tomorrow morning.

Representative Thoft said this amendment that he has proposed takes care of the Workers' Comp issue and that is important. He said Rep. Bradley's motion brings in a whole new group of taxpayers that are not prepared to have their taxes accelerated.

Representative Bardanouve asked how it can bring in a lot more taxpayers. Rep. Bradley said Rep. Thoft's bill refers to the larger income taxpayers and since she had thought it was to be only accelerated corporate taxes she had been confused in reading the first insertion. She said Senator Crippen's bill includes with the larger income withholders as well, and is really two categories. Rep. Thoft said that is true, his amendment only deals with the corporate taxpayer.

Representative Peck asked Rep. Bradley, you have something over \$30 million additional to the \$20 million and you are proposing that will go to university building? Rep. Bradley said that is what this bill does, when it was originally introduced the entirety went to building. Senator Crippen had said if they were going to spend the money anyway, why not invest it in something, not just spend it.

Representative Peck asked, in comparison to Rep. Thoft's amendment, yours would generate about \$32 million of additional funds and direct that to University buildings. Rep. Bradley said it ties the two bills together, so that, in effect, is what it would do.

Representative Peck asked what building order, is it specified in

the bill or left up to the Regents, or what? Rep. Bradley said she had assumed there would be a bonding program and it would be done through the Regents at whatever rate the sum would pay them off.

Representative Grinde asked Rep. Driscoll how he felt on tying Rep. Bradley's bill to the Workers' Comp bill and Rep. Driscoll said his preference would be to take the whole bill and put it in House Bill 56. Representative Grinde asked if Rep. Thoft's bill would take care of Workers' Comp and Rep. Driscoll said if both bills passed the legislative Council would have to incorporate the two since both bills accelerate the corporate tax.

In answer to a question from Rep. Bardanouve as to whether they could wait for the Crippen bill he was told that would be too late.

Representative Swysgood asked if there isn't another option to the Crippen bill if we insert Rep. Thoft's amendment into this particular legislation, they have the option of deleting the part in the Senate bill that deals with the corporate tax and leaving the bill just addressing the individual income tax for the money that goes to the University building. Rep. Spaeth said that would be an option.

Discussion was held on what would happen in each scenario and how it could be handled. Representative Spaeth said if we pass the Bradley amendment, in order to have money for the acceleration, then Senate Bill 14 would have to pass. If it did not pass in some form or other, then this would not be affected.

Representative Quilici asked what effect that would have on the Workman's Comp then, and was told by Rep. Bradley that it would get the money from the general fund, it depended only on where we get the money to put into the general fund.

Representative Peterson said the Workers' Comp bill is very important in her area and she would feel more comfortable with the Thoft amendment in case something happened to the Senate bill.

Recommendation: The Bradley amendment was voted, passed, 11 members voting yes, 9 members voting no.

Motion: Motion by Representative Spaeth that House Bill 56, as amended, do pass.

Recommendation and Vote: Voted, Voice Vote, motion passed with Representatives Grinde, Swift, Swysgood, Cobb and Grady voting no.

DAILY ROLL CALL

HOUSE APPROPRIATIONS COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date July 7 - 1989

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	✓		
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

DAILY ROLL CALL

HOUSE APPROPRIATIONS

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date

July 7- PM

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH	✓		
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	.	✓	
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

STANDING COMMITTEE REPORT

"An Act to Appropriate \$20 Million from the General Fund
to Reduce the Unfunded Liability
in the Workers' Compensation System"

July 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that
HOUSE BILL 56 (second reading copy -- yellow) do pass as
amended .

Signed: _____
Francis Bardanouve, Chairman

And, that such amendments read:

1. Title, line 15.

Following: " ; "

Insert: "PROVIDING A COORDINATION PROVISION; "

2. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 4. Coordination. If Senate Bill
No. 14 is not passed and approved or if Senate Bill No. 14
is passed and approved but does not provide for the
accelerated collection of corporate income and license taxes
with the deposit of at least \$15 million of accelerated
collections in the general fund, [this act] is void."

Renumber: subsequent section

EXH 1

Amendments to House Bill No. 56
Second Reading Copy

EXHIBIT 1
DATE July 7, 89
HB 56

Requested by Representative Thoft
For the Committee on Appropriations

Prepared by Greg Petesch
July 7, 1989

1. Title, line 13.

Following: " ; "

Insert: "TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS
SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL
STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR
INTEREST PENALTIES FOR UNDERPAYMENT;"

2. Title, line 15.

Strike: "SECTION"

Insert: "SECTIONS 15-31-101, 15-31-502, AND"

3. Title, line 17.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE."

4. Page 16, line 11.

Following: line 10

Insert: "Section 1. Section 15-31-101, MCA, is amended to read:

"15-31-101. Organizations subject to tax. (1) The term
"corporation" includes associations, joint-stock companies,
common-law trusts and business trusts which do business in an
organized capacity, and all other corporations whether created,
organized, or existing under and pursuant to the laws,
agreements, or declarations of trust of any state, country, or
the United States.

(2) The terms "engaged in business" and "doing business"
both mean actively engaging in any transaction for the purpose of
financial or pecuniary gain or profit.

(3) Except as provided in 15-31-103 or 33-2-705(4) or as
may be otherwise specifically provided, every corporation engaged
in business in the state of Montana shall annually pay to the
state treasurer as a license fee for the privilege of carrying on
business in this state such percentage or percentages of its
total net income for the preceding taxable year at the rate
hereinafter set forth. In the case of corporations having income
from business activity which is taxable both within and without
this state, the license fee shall be measured by the net income
derived from or attributable to Montana sources as determined
under part 3. ~~This~~ Except as provided in 15-31-502, this tax is
due and payable on the 15th day of the 5th month following the
close of the taxable year of the corporation; however, the tax
becomes a lien as provided in this chapter on the last day of the
taxable year in which the income was earned and is for the
privilege of carrying on business in this state for the taxable
year in which the income was earned.

(4) Every bank organized under the laws of the state of

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Montana, of any other state, or of the United States and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporation license tax provided for under this chapter. For taxable years beginning on and after January 1, 1972, this subsection is effective in accordance with Public Law 91-156, section 2 (12 U.S.C. 548)."

Section 2. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, ~~penalty, and interest~~ -- estimated tax payment. (1) All taxpayers shall compute the amount of tax payable under this chapter and shall remit ~~such~~ the amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. ~~If the tax is not paid on or before the due date, there shall be assessed a penalty of 10% of the amount of the tax unless it is shown that the failure was due to reasonable cause and not due to neglect. If any tax due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of 12% per annum from the due date until paid.~~

(2) Each corporation shall make estimated tax payments if its annual estimated tax can reasonably be expected to be \$5,000 or more. The estimated payments must be made in installments as follows: (a) If the \$5,000 threshold is met or exceeded: The following percentages of the estimated tax must be paid on the 15th day of the applicable months:

month	month	month	month	Before the 1st day of
the 4th month of the taxable year:	25%	25%	25%	25%
the last day of the 3rd month and before the 1st day of the 6th month of the taxable year:	33 1/3%	33 1/3%	33 1/3%	After the
the last day of the 5th month and before the 1st day of the 9th month of the taxable year:	50%	50%	After the last	day of the 8th month and before the 12th month of the taxable year:
	100%			

(b) If after paying any installment of estimated tax the taxpayer makes a new estimate, the amount of each installment, if any, is the amount that would have been paid if the new estimate had been made when the first estimate for the taxable year was made, increased or decreased, as the case may be, by the amount computed by dividing:

(i) the difference between:

(A) the amount of estimated tax required to be paid before the date on which the new estimate was made; and

(B) the amount of estimated tax that would have been required to be paid before that date if the new estimate had been made when the first estimate was made:

(ii) by the number of installments remaining to be paid on or after the date on which the new estimate was made.

(3) The application of this section to taxable years of less than 12 months must be in accordance with rules adopted by the department.

(4) At the election of the corporation, any installment of the estimated tax may be paid before the date prescribed for its payment."

NEW SECTION. Section 3. Estimated payments -- interest

Ex. #1

HB 56

7-7-89

penalty -- tax returns -- penalty -- interest. (1) For corporations failing to make estimated payments according to the schedule provided in 15-31-502(2), there is assessed a 20% per annum underpayment interest penalty calculated as follows:

(a) For purposes of this subsection (a), the amount of underpayment is in excess of the amount of the installment that would be required to be paid if the estimated tax were equal to 80% of the tax shown on the return for the taxable year or, if no return was filed, 80% of the tax for the year over the amount, if any, of the installment paid on or before the last date prescribed for payment.

(b) Notwithstanding the provisions of subsection (1)(a), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were the lesser of the following:

(i) the tax shown on the return of the corporation for the preceding taxable year if a return showing a liability for tax was filed for the preceding taxable year and the preceding year was a taxable year of 12 months;

(ii) an amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or

(iii) an amount equal to 80% of the tax for the taxable year, computed by placing on an annualized basis the taxable income:

(A) for the first 3 months of the taxable year in the case of the installment required to be paid in the 4th month;

(B) for the first 3 months or for the first 5 months of the taxable year in the case of the installment required to be paid in the 6th month;

(C) for the first 6 months or for the first 8 months of the taxable year in the case of the installment required to be paid in the 9th month; and

(D) for the first 9 months or for the first 11 months of the taxable year in the case of the installment required to be paid in the 12th month of the taxable year.

(c) For purposes of subsection (1)(b)(iii), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b)(iii); and

(ii) dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b)(iii).

(d) Notwithstanding subsections (1)(a) through (1)(c), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount under this subsection (e) for any installment:

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(i) take the taxable income for all months during the taxable year preceding the filing month;

(ii) divide the amount by the base period percentage for all months during the taxable year preceding the filing month;

(iii) determine the tax on the amount calculated under subsection (1)(e)(ii); and

(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70%; and

(iv) the department of revenue may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) If the tax for any corporation is not paid on or before the due date of the return as provided in 15-31-111(2), there is assessed a penalty of 10% of the amount of the tax due, unless it is shown that the failure was due to reasonable cause and not to neglect.

(3) If any tax due under this section is not paid when due, by reason of extension granted or otherwise, interest is added to the tax due at the rate of 12% a year from the due date until paid."

Renumber: subsequent sections

5. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 7. Codification. [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 3].

NEW SECTION. Section 8. Applicability. [Sections 1 through 3] apply to taxable years beginning after December 31, 1989."

Renumber: subsequent section

Ex 2
Amendments to House Bill No. 56
Second Reading Copy

EXHIBIT 2

DATE 7/7/89

HB 56

Requested by Representative Bradley
For the Committee on Appropriations

Prepared by Greg Petesch
July 7, 1989

1. Title, line 15.

Following: ";

Insert: "PROVIDING A COORDINATION PROVISION;"

2. Page 17, line 18.

Following: line 17

Insert: "NEW SECTION. Section 4. Coordination. If Senate Bill No. 14 is not passed and approved or if Senate Bill No. 14 is passed and approved but does not provide for the accelerated collection of corporate income and license taxes with the deposit of at least \$15 million of accelerated collections in the general fund, [this act] is void."

Renumber: subsequent section

VISITORS' REGISTER

Appropriations COMMITTEE

BILL NO.

DATE _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

(A)

ROLL CALL VOTE

HOUSE APPROPRIATIONS

COMMITTEE

DATE 7-7-99

BILL NO. HB 56

NUMBER # 2

NAME	AYE	NAY
REPRESENTATIVE SPAETH	✓	
REPRESENTATIVE PECK	✓	
REPRESENTATIVE IVERSON		✓
REPRESENTATIVE SWIFT		✓
REPRESENTATIVE OUILICI	✓	
REPRESENTATIVE BRADLEY	✓	
REPRESENTATIVE PETERSON		✓
REPRESENTATIVE MARKS		✓
REPRESENTATIVE CONNELLY	✓	
REPRESENTATIVE MENAHAN	✓	
REPRESENTATIVE THOFT		✓
REPRESENTATIVE KADAS	✓	
REPRESENTATIVE SWYSGOOD		✓
REPRESENTATIVE KIMBERLEY	✓	
REPRESENTATIVE NISBET	✓	
REPRESENTATIVE COBB		✓
REPRESENTATIVE GRINDE		✓
REPRESENTATIVE CODY	✓	
REPRESENTATIVE GRADY		✓
REPRESENTATIVE BARDANOUVE	✓	

TALLY

11 9

Sylvia Kinsey
Secretary

Representative Bardanouve
Chairman

MOTION:

Bradley
ask 2

MINUTES

MONTANA SENATE 51st LEGISLATURE - SPECIAL SESSION COMMITTEE ON LABOR AND EMPLOYMENT

Call to Order: By Chairman Gary Aklestad, on July 10, 1989,
at 10:50 a.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Sam Hofman, Senator Gerry Devlin,
Senator Bob Pipinich, Senator Richard
Manning, Senator Chet Blaylock, Senator
Gary Aklestad

Members Excused: Senator Tom Keating, Senator J. D. Lynch,
Senator Dennis Nathe

Members Absent: None

Staff Present: Tom Gomez

Announcements/Discussion:

Chairman Aklestad reminded the committee that a joint hearing was held with the House committee on this bill, and reported that he sent a notice to the sponsor, Representative Driscoll, so he could be part of the discussion because the bill has changed quite a bit compared to the original bill the committee heard. He indicated that they will not have a full-blown hearing because he is sure Representative Driscoll will explain, noting that he thinks most of the committee members are aware of what changes have taken place in the bill. Chairman Aklestad added that he understands there may be some technical amendments.

Chairman Aklestad then asked Representative Driscoll to explain the changes in the bill.

Discussion: HB 56

Representative Driscoll reported that, when they had the joint committee, the freezes were in, that the committee took them out, and the floor of the House put them back in. He referred to the bottom of page 18 and page 19, and indicated it is paid for by accelerated corporation payments, only, which is what would pay the \$20 million, or about.

Chairman Aklestad reported that Senator Crippen's bill was on the floor, yesterday, noting that he sees the \$5,000, and

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July 10, 1989

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asked if the amendment is exactly the same as the corporate side of Senator Crippen's bill. Representative Driscoll responded that he is not sure, but does not think so, that it may be, but would have to be checked. He indicated this is only the corporate. Chairman Aklestad pointed out that he clarified that by saying the corporate, and again asked if this is the same as the corporate side of Senator Crippen's bill. Chairman Aklestad then asked Mr. Gomez if that was \$5,000 and above. Mr. Gomez responded it was.

Representative Driscoll indicated that the division asked for an amendment on page 36, new section 12, exemption from notice requirement. He reported that the law, right now, says that they have to give 30 days notice to make any change in rates, and this would roll back the rates, so they would not have to comply with the 30 day notice. Chairman Aklestad asked if that is just in this case. Representative Driscoll responded just in this case, just one time, that it is effective July 1, 1989, in response to the provisions of this act, so it is only the one-time exemption.

He added that it provides \$6 million over the biennium, and about \$20 million in one-time money from accelerated collections, which would be invested and, at the estimated 7%, would bring in \$1.5 million a year in interest, which would also be deposited in the workers compensation fund. He indicated that, after the total \$20 million was collected and deposited, they would have a balance of about \$49 million being invested, and would be actuarially sound.

Questions from the Committee:

- Q. Chairman Aklestad asked Representative Driscoll if he understands him to say the purpose of that money would not be for expenditure, that just the interest would be used.
- A. Representative Driscoll responded maybe some day.
- Q. Chairman Aklestad asked how it is directed, in the bill.
- A. Representative Driscoll responded that it is paid to the unfunded liability, but will be deposited in the workers compensation account, invested by the Board of Investments and, as those bills come in, they would pay them off.
- Q. Chairman Aklestad asked if, then, the purpose would be to pay those bill off, if need be.

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- A. Representative Driscoll responded yes but indicated that, whether they use the \$20 million to pay off the bills, or new premiums to pay off the bills, is just a technicality, and that they want to leave as much in the Board of Investments as they can, being invested, so they get the return on the money.
- Q. Chairman Aklestad asked if the main thrust of that effort is to forestall the increase in premiums.
- A. Representative Driscoll responded that it will definitely stop the raise in premiums.
- Q. Chairman Aklestad noted except that the raises within a category might go high or low.
- A. Representative Driscoll indicated that a class code which had a bad experience would still have a raise, and that individual employers who have a bad modification factor would still get a raise. He cited the example that loggers went up 19% and, without the 22% raise July 1st, they would probably see a slight reduction or a freeze.
- Q. Senator Blaylock indicated that Representative Driscoll said a slight freeze, and asked if that is a freeze at 22%.
- A. Representative Driscoll responded that he does not know, that it was \$38, and they went to \$45, that the difference is 19%, which was a little bit less than the average, and they will go back to \$38, or possibly a little bit lower.
- Q. Senator Pipinich asked if the loggers will do that.
- A. Representative Driscoll responded yes, that they do not have a bad experience, that they just took a 22%. He added that, in other class codes, however, he thinks iron workers will still get a raise because their class code had a bad experience, plus they would get 22% less raise than they have now.
- Q. Senator Pipinich then asked what is their category.
- A. Representative Driscoll responded it was \$12, and went to \$24.

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- Q. Senator Pipinich pointed out that they are getting a lot of heat from the jockey association.
- A. Representative Driscoll reported that got fixed, that the jockeys were fixed, but not all the horsemen. He indicated that their class code deserved 100% raise but, through investigation by the department, they found that only 15% of those people were paying, that, because of the nature of the industry, people would come into the state, be here for two or three months, and leave before the premium was due. He reported that, now, the division is going to require the horseracing board to collect \$220 from everybody who applies for a license, up front, to put in workers compensation, and that the horsemen agreed to that.
- Q. Senator Blaylock indicated that this keeps them safe for one year, and asked if they do not know what will happen in the next year.
- A. Representative Driscoll responded no, they do not. He pointed out that they need only about \$19.5 million, and are being given \$6 million in freezes, \$20 million in cash, plus the investment income. He added that, barring bad experience this year, if the loss ratio does not go any higher than 88%, as it was in 1988, they probably will not have a raise. He further indicated that, if it goes down to 85%, as they are hoping, there will probably be no rate increase but, if they go to a 95% loss ratio, or something else happens, there is no way to control it.
- He then indicated that the other part of it is if the truckers association or loggers association, or some other industry groups put in place safety programs. He cited the example that the Montana Loggers Association put their's into effect a couple of years ago, that four or five years ago they were at over 100% loss ratio but, in the last three years, they only had 38%. He indicated that will bring their class code down, over time, that it takes four years for that element to take effect. He added that figures into the whole program, if they keep the loss ratio down, noting that, if there is a raise in 1990, he does not anticipate very much, they will get an extra \$9 million, or \$9.5 million, over and above what they asked for in rate increases in July of 1989.
- Q. Senator Devlin asked how much the total funds raised by this bill will be.

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- A. Representative Driscoll responded \$20 million from the general fund, and \$3 million, each year, in freezes.
- Q. Chairman Aklestad indicated that it is not general fund, anymore.
- A. Representative Driscoll pointed out that it says general fund in the bill.
- Q. Senator Devlin asked where is the money that this raises, by accelerating all this, and how much is that.
- A. Representative Driscoll responded \$20 million. He indicated that he believes Representative Thoft's amendment says they will accelerate just the corporations, which goes into the general fund, that 25% of the corporate acceleration goes to school funding, and 75% goes to workers compensation, but it frees up \$5 million of general fund. He further explained that Representative Thoft's amendment accelerates the corporations who owe more than \$5,000 in a year, puts it in the general fund, and that this appropriates it from the general fund.
- Q. Senator Devlin asked if it puts it in, then takes it out, almost the same dollars.
- A. Representative Driscoll responded right, and indicated that they have \$3 million a year in freezes, that over the biennium it is \$6 million and then, depending on how fast the \$20 million is deposited, they get the interest on that.
- Q. Senator Devlin asked if that goes right into the workers compensation fund.
- A. Representative Driscoll responded that it goes to workers compensation, the Board of Investments invests it, and it does not go back to the general fund.
- Q. Senator Blaylock asked if that is a possibility of \$6 million a year.
- A. Representative Driscoll responded that the freezes are \$6 million a year, and they are anticipating a 7% return on short-term investments.

Chairman Aklestad noted that would be \$1.4 million per year.

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Representative Driscoll indicated that he does not know how fast that money will get in there but, for fiscal year 1991, it will all be there, that they will have at least \$1.4 million for that fiscal year and, for the last half of this fiscal year, they will have some.

Q. Chairman Aklestad asked if there was any consideration given to the freeze, making it retroactive, and asked that he clarify that because the Supreme Court has ruled that they can not do that. He noted that the Supreme Court has also indicated several times that, if they specifically give a reason why they are doing something, they would go along with that. He again asked if any consideration has been given to making that retroactive, with a clause specifically in there to designate to the Supreme Court why they made that portion retroactive.

A. Representative Driscoll reported that Mr. Sweeney did not think they could do that but, if they do it, he thinks there has to be a severability clause. He pointed out that, if that portion is not upheld, it will be separate from the rest of the bill so that in those thirty days, or whatever it takes, the people who were injured between July 1st and whatever date that is would get the maximum. He indicated that they should put a severability clause in, noting that he thinks it is a good idea, but he does not know if they have time in the House.

Discussion:

Chairman Aklestad indicated that it would possibly save administrative costs, and would save premium costs from July 1st of this year to the time the Governor signs it, whenever that is, noting that, if they roll this thing, it should not be long, that this could be on his desk by Wednesday.

Representative Driscoll indicated that would be fine with him, but that, if they do that, they should put a severability clause in so that, if it is found illegal by the Supreme Court, it does not throw out the whole bill. Chairman Aklestad agreed that they should put in a severability clause so that, if it is tossed out, the rest of the bill would be intact, and those individuals entitled to a law suit would recoup their losses back to July 1st.

Chairman Aklestad then asked Representative Driscoll if he thinks the House will go for that, in committee, so they do not have to horse around, pointing out that there is no use

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for them to do something, here, if it is not going to pass in the House. Representative Driscoll responded that a lot of people asked him that, in the House, but he did not have the answer from Mr. Sweeney as to what he thought about it, so he went with it the way it was.

There was general discussion regarding an amendment to add a severability clause, as well as the technical amendments. Chairman Aklestad asked Mr. Gomez to explain the technical amendments.

Mr. Gomez indicated that the technical amendments are really rather simple, that it is only two things, the first of which is to make effective immediately the 1989 amendments to the law on payment of medical and hospital benefits, in order to make good their use of this law, which occurs on page 29. He explained that the language on page 29, Section 7, really does not exist yet, that this section includes amendments made in the 1989 session. Chairman Aklestad indicated that it does not say new section, and is not underlined, and asked how can it not be there. Mr. Gomez responded because this is the way the law will appear when it is codified and they have put in all the 1989 amendments. He indicated that, in order to make valid the use of this section, they need to make effective immediately those 1989 amendments which appear in Section 23, Chapter 613.

Chairman Aklestad asked how that will correlate with his proposal to go back, retroactive, to July 1st with the severability clause; how that will interact with his suggestion that it be retroactive. Mr. Gomez responded that they match perfectly.

Mr. Gomez then indicated that the next thing the amendments do is correct an erroneous internal reference to the section in this bill which makes available the \$20 million to the workers compensation tax account. He referred to page 35, line 12, and pointed out that it says Section 2 but, on line 17, Section 11 is the section which makes the appropriation of money, and this is just a little oversight.

Motion: Senator Manning offered a motion that the technical amendments to HB56 be adopted.

Vote: Motion passed unanimously by the committee that the technical amendments to Hb56 be adopted.

Chairman Aklestad indicated that this bill is still appropriating general fund money, that they are anticipating that

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portion of Senator Crippen's bill will be enacted, the money will then go to the general fund, and they will take it back out the other way. Mr. Gomez explained that the parts of Senator Crippen's bill which provide for the accelerated corporate license and income tax payments is actually in this bill, and provides for the accelerated tax payments to generate revenue, but that revenue already goes to the general fund and they are making a direct appropriation out of the general fund, in anticipation of those monies being deposited there.

Chairman Aklestad asked if, regardless of Senator Crippen's bill, this bill will take the corporation acceleration put into the general fund, and also if they have the mechanism to pull it back out of the general fund, and for the use of it. Senator Devlin responded that is correct, noting that the amendments he had only took \$15 million. Chairman Aklestad asked, if Senator Crippen's bill dies, will they still have a mechanism.

Senator Hofman asked if this brings in about \$50 million. Chairman Aklestad responded no, \$20 million, that, in this bill, they are only accelerating the corporate side, which brings in approximately \$20 million, and only for \$5,000 due from a corporation. He noted that the personal side is another \$30 some million, which is what he tried to do on the floor, pull the personal side out and leave the corporate side in. Senator Pipinich indicated that they turned right around and did it with this bill, for that purpose.

Senator Pipinich then asked Chairman Aklestad if they are going to put his amendments on the bottom of this amendment. Chairman Aklestad responded no, that it has to be separate. Senator Pipinich asked if it has to be a separate motion. Chairman Aklestad responded that it has to be a separate motion with some strong boiler-plate language to satisfy the court because, in the past, they have indicated, if they are given direction to what the Legislature is thinking, they may not even have considered it, or would have considered it in a different light. He then asked if the committee understands what they are trying to accomplish, adding that they will need a separate severability clause.

Motion: Senator Devlin offered a motion to come up with some boiler-plate language for the bill to go back retroactive to July 1st.

Chairman Aklestad pointed out that HB56 was introduced and had a hearing prior to July 1st of this year, and the Legislature

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was actively involved in trying to do something along these lines prior to that time. Mr. Gomez indicated that there is already a severability clause in the bill in Section 13 on page 36, noting the point being well-taken concerning the retroactive applicability of the provisions imposing and continuing these, and all they need to do is have a motion to provide for retroactive applicability of those provisions providing for a continuation of these to July 1, 1989.

Chairman Aklestad indicated that they need some type of language as to why they are asking for that retroactive date, that the Supreme Court wants to know what they are hanging their hat on. Senator Blaylock suggested that Mr. Gomez draw it up saying that the House and Senate were considering this before July 1, 1989 and, because of other bills being passed, this had to be re-visited, that the \$20 million was put in from another source than what was being considered at the time, and the committee, therefore, asks that the active date be July 1, 1989, if this bill would be put into effect.

Chairman Aklestad asked Mr. Gomez if the severability clause is broad enough to cover the whole gambit. Mr. Gomez responded that the severability clause specifically applies to this act, which is the entirety of the bill before the committee. Chairman Aklestad indicated they want to make sure, so that they are correct, and further asked Mr. Gomez if the severability clause will cover the retroactive portion. Mr. Gomez responded yes, and pointed out that the statement by Senator Blaylock as to the rationale would suffice, if it were simply added to the record, into the minutes, so as not to further complicate this bill. Senator Blaylock noted that he thinks it would be good that it just be made part of the record.

Chairman Aklestad asked Mr. Bohyer if, in the past, the Supreme Court has looked at the record, also. Mr. Bohyer responded that he has not done too much research in that area, but that yes, minutes of legislative meetings are used. Chairman Aklestad asked if the committee would agree that their intent for the retroactive applicability date be included in the minutes. The committee responded that they would agree.

Vote: Motion passed unanimously by the committee that HB56 be amended to be retroactive to July 1st.

Motion: Senator Manning offered a motion that HB56, as amended, be concurred in.

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Mr. Gomez indicated that, because HB56 does contain the accelerated tax payments under SB14, which is those accelerated payments for corporate license and income taxes, some consideration should or might be given to coordinating the provisions of HB56 relating to those tax payments and those provisions in SB14, in the event SB14 passes. Senator Pipinich stated that they have them in Section 11. Mr. Gomez indicated that his suggestion, if the committee wishes to consider that so as to prevent any conflicts in the law, is that they have one or the other provision in the bill eliminated, if both are passed.

Senator Manning withdrew his motion that HB56, as amended, be concurred in.

Chairman Aklestad indicated that he does not follow, and Mr. Gomez explained that SB14 has virtually the same language as found on pages 15 through 24, which provide for the accelerated tax payments of corporate license and income taxes, including the provision concerning the \$5,000 requirement for the estimated tax due. He added that, to the extent that SB14 relates to this, and may be changed in any particular way, they need to make sure that, if SB14 is enacted, and this bill is also enacted, the provisions in this bill will apply, and supercede whatever is done in SB14, to prevent any problems which may result from enactment of both bills. He indicated that this is the kind of problem which occurs when they graft into one bill the substance of another bill which is moving through the legislative process and has, in fact, been approved by the Senate and now is in the House.

Chairman Aklestad asked Mr. Gomez, if they both pass, how they can supercede this one. Mr. Gomez responded all that would be required is a coordination provision which would say that, if both bills are enacted, the provisions in SB14 relating to accelerated tax payments for corporate license and income taxes are void, and the provisions of HB56 will apply, or are valid, so that they make sure that only one of these is going to be the law.

Motion: Senator Blaylock offered a motion that HB56 be amended to provide that the language in HB56, pertaining to accelerated tax payments for corporate license and income taxes, take precedence over SB14, in the case both are enacted.

Vote: Motion passed unanimously by the committee that HB56 be amended to provide that the language in HB56, pertaining to accelerated tax payments for corporate

SENATE COMMITTEE ON LABOR AND EMPLOYMENT

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license and income taxes, take precedence over SB14, in the case both are enacted.

Motion: Senator Manning offered a motion that HB56, as amended, be concurred in.

Chairman Aklestad asked if everyone understands all the amendments, or if they should briefly run through them. The committee members responded that they understood the amendments.

Vote: Motion passed unanimously by the committee that HB56, as amended, be concurred in.

Chairman Aklestad indicated that the extra language, instead of being in the bill, will be part of the record, so they will not see it on the Senate floor, as far as the retroactive portion, and the portion regarding superceding will be part of the bill. He noted that the technical changes will be also be added to the bill.

Senator Blaylock asked how the lawyers and the people out there will know the effective date is July 1st. Mr. Gomez responded that they approved the amendment concerning the retroactive date, but not the rationale, so they will still have a retroactive applicability date.

ADJOURNMENT

Adjournment At: 11:25 a.m.



GARY C. AKLESTAD, Chairman

GCA/mhu
HB56AM.710

ROLL CALL

LABOR COMMITTEE
51ST LEGISLATIVE SESSION

DATE: July 10, 1989 a.m.

NAME	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING			✓
SENATOR SAM HOFMAN	✓		
SENATOR J. D. LYNCH			✓
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE			✓
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK	✓		
SENATOR GARY AKLESTAD	✓		

Amendments to House Bill No. 56
Third Reading Copy

For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez
July 10, 1989

1. Title, line 2.

Strike: "AND"

2. Title, line 4.

Following: "DATE"

Insert: "FOR THIS ACT AND FOR SECTION 23, CHAPTER 613, LAWS OF 1989,"

Following: "AND"

Insert: "PROVIDING"

3. Page 35, line 9.

Following: "fund."

Insert: "The account consists of:"

4. Page 35, line 10.

Strike: "(2) All"

Insert: "(a) all"

Following: "and"

Insert: "including"

5. Page 35, lines 11 through 13.

Following: "tax" on line 11

Strike: remainder of line 11 through "are" on line 13

Insert: "; and

(b) revenue appropriated to the account under [section 11].

(2) All money in the tax account is"

6. Page 37, line 5.

Strike: "IS"

Insert: "and section 23, Chapter 613, Laws of 1989, are"

Amendments to House Bill No. 56
Third Reading Copy

For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez
July 10, 1989

1. Title, page 2, line 2.
Strike: "AND"

2. Title, page 2, line 4.
Following: "DATE"
Insert: "FOR THIS ACT AND FOR SECTION 23, CHAPTER 613, LAWS OF 1989;"
Following: "AND"
Strike: "AN"
Insert: "PROVIDING"
Following: "APPLICABILITY"
Strike: "DATE"
Insert: "DATES"

3. Page 35, line 9.
Following: "fund."
Insert: "The account consists of:"

4. Page 35, line 10.
Strike: "(2) All"
Insert: "(a) all"
Following: "and"
Insert: "including"

5. Page 35, lines 11 through 13.
Following: "tax" on line 11
Strike: remainder of line 11 through "are" on line 13
Insert: "; and
(b) revenue appropriated to the account under [section 11].
(2) All money in the tax account is"

6. Page 36, line 15.
Following: line 14
Insert: "NEW SECTION. Section 15. Coordination instruction. (1) If this bill and Senate Bill No. 14 are both passed and approved, then [section 1, Senate Bill No. 14] is amended so language that reads: "\$20 million is allocated to the workers' compensation tax account under 39-71-2504" will read: "\$20 million is allocated to the state general fund and is appropriated as provided in [section 11, House Bill No. 56]".
(2) If this bill and Senate Bill No. 14 are both passed and approved, then [section 7, Senate Bill No. 14] and the amendments contained in [sections 5 and 6, Senate Bill No. 14] are void."
Renumber: subsequent sections

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2 pg 2

DATE 7/10/89 a.m.

BILL NO. H356

7. Page 36, line 15.
Following: "APPLICABILITY."
Insert: "(1)"

8. Page 36, line 18.
Following: line 17
Insert: "(2) [Sections 4 through 9] apply retroactively, within
the meaning of 1-2-109, to July 1, 1989."

9. Page 37, line 5.
Strike: "IS"
Insert: "and section 23, Chapter 613, Laws of 1989, are"

MINUTES

MONTANA SENATE 51st LEGISLATURE - SPECIAL SESSION COMMITTEE ON LABOR AND EMPLOYMENT

Call to Order: By Chairman Gary C. Aklestad, on July 10, 1989, at 4:00 p.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Tom Keating, Senator Sam Hofman, Senator J. D. Lynch, Senator Gerry Devlin, Senator Bob Pipinich, Senator Dennis Nathe, Senator Richard Manning, Senator Gary Aklestad

Members Excused: Senator Chet Blaylock

Members Absent: None

Staff Present:

Announcements/Discussion:

Chairman Aklestad announced that the committee is having a meeting to reconsider their action taken this day on HB56 and, as long as they are here, he suggested that they take action on HB62.

Discussion: HB 56

Chairman Aklestad explained that HB56 is the bill the committee just worked with today, that it has a sunset provision in it, accelerates the collection of corporate taxes over \$5,000 and puts that money into the general fund, and then there is a mechanism to move that money back out. He indicated that the committee put a retroactive provision in the bill because it sunsets on June 30 of this year. He reported that he was contacted, after the committee's earlier meeting today, and was advised that it is possible they can not do that, so he talked to Mr. Petesch, and it appears that they should just send the bill out, as is, that the sunset provision has very little chance of mustering the Supreme Court's approval. He added that Mr. Petesch had concerns about the lump-sum benefit and the Social Security offset, that they have determined that it is a vested right and would claim the same thing, even though the language was put in the minutes to back up what the committee had done and why, and they did not feel that would be good enough. Chairman Aklestad noted that the rest was just odds and ends.

SENATE COMMITTEE ON LABOR AND EMPLOYMENT

July 10, 1989

Page 2 of 6

Motion: Senator Devlin offered a motion that the committee reconsider their action on HB56.

Vote: Motion passed unanimously by the committee that they reconsider their action on HB56.

Motion: Senator Manning offered a motion that all the amendments voted on by the Senate Labor Committee this date be stripped from HB56.

Vote: Motion passed unanimously by the committee that all the amendments voted on by the Senate Labor Committee this date be stripped from HB56.

Motion: Senator Manning offered a motion that HB56 be concurred in, in its original form.

Vote: Motion passed unanimously by the committee that HB56 be concurred in, in its original form.

Discussion: HB 62

Chairman Aklestad indicated that HB62 is to establish a joint select committee on workers compensation, and indicated that it would be his recommendation that the \$40,000 figure be changed to the original \$15,000. He explained that the thrust by Representative Owens was to have them hire a new actuary, and indicated that possibly, noting that he does not think they have to put it in the bill, that it can be in the minutes, that they can direct the department to hire a new actuary, rather than hiring the old one.

Senator Keating indicated that, if they simply replace the actuary, the only thing they will know from the results is whether the actuaries agree, which will not tell them anything. He stated that what they really need is a study of the basic data itself, that they need an audit of the basic data before they start changing actuaries, and they could do that by hiring another actuary, but directing that they audit the data base, or audit the data, first, before they render an actuarial report. He suggested that they amend language into the bill to correct that, in order to make sure that it gets done properly, and pointed out that the Legislative Auditor has sufficient reason to doubt that the data coming out of the workers comp, and given to the actuary, is accurate data, or substantive data to arrive at an actuarial statement, which is why he thinks there should be an audit of the data.

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: 7/10/89 4:00

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	✓		
SENATOR SAM HOFMAN	✓		
SENATOR J.D. LYNCH	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR BOB PIPINICH	✓		
SENATOR DENNIS NATHE	✓		
SENATOR RICHARD MANNING	✓		
SENATOR CHET BLAYLOCK			✓
SENATOR GARY AKLESTAD	✓		

Amendments to House Bill No. 56
Third Reading Copy

For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez
July 10, 1989

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Insert: "; and

(b) revenue appropriated to the account under [section 11].

(2) All money in the tax account is"

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Strike: "IS"

Insert: "and section 23, Chapter 613, Laws of 1989, are"

HOUSE BILL NO. 56

INTRODUCED BY DRISCOLL, THAYER, SMITH, WILLIAMS, NOBLE,
MARKS, OWENS, RAPP-SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE WORKERS'
COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
IMPOSE A 3.3 PERCENT TAX ON EMPLOYEE WAGES, IN ADDITION TO
THE CURRENT EMPLOYER PAYROLL TAX REVISE THE WORKERS'
COMPENSATION ACT TO CONTINUE THE FREEZE ON MAXIMUM WEEKLY
COMPENSATION BENEFITS PAYABLE BY AN INSURER; TO EXTEND THE
PERIOD FOR WHICH A FREEZE IS IMPOSED ON THE MAXIMUM FEE
SCHEDULE FOR MEDICAL, HOSPITAL, AND RELATED SERVICES; TO
APPROPRIATE \$20 MILLION FROM THE GENERAL FUND, TO REDUCE THE
UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
INSURANCE FUND; TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY
ALL TAXPAYERS SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO
HAVE ANNUAL STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO
PROVIDE FOR INTEREST PENALTIES FOR UNDERPAYMENT; TO EXEMPT
RATE CHANGES MADE IN RESPONSE TO THIS ACT FROM THE 30-DAY
NOTICE REQUIREMENT; AMENDING SECTIONS 39-71-701 THROUGH
39-71-704, 39-71-721, 39-71-1024, AND 39-71-2501 THROUGH
SECTION SECTIONS 15-31-101, 15-31-502, 39-71-701 THROUGH

39-71-704, 39-71-721, 39-71-1024, AND 39-71-2504, MCA;
PROVIDING A COORDINATION PROVISION; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE, A TERMINATION DATE, AND A
RETROACTIVE APPLICABILITY DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-701, MCA, is amended to read:

"39-71-701. Compensation for temporary total
disability. (1) Subject to the limitation in 39-71-736, a
worker is eligible for temporary total disability benefits
when the worker suffers a total loss of wages as a result of
an injury and until the worker reaches maximum healing.
(2) The determination of temporary total disability
must be supported by a preponderance of medical evidence.
(3) Weekly compensation benefits for injury producing
temporary total disability shall be 66 2/3% of the wages
received at the time of the injury. The maximum weekly
compensation benefits shall not exceed the state's
average weekly wage at the time of injury. Temporary total
disability benefits shall must be paid for the duration of
the worker's temporary disability. The weekly benefit amount
may not be adjusted for cost of living as provided in
39-71-702(5).
(4) In cases where it is determined that periodic
disability benefits granted by the Social Security Act are

1 payable because of the injury, the weekly benefits payable
2 under this section are reduced, but not below zero, by an
3 amount equal, as nearly as practical, to one-half the
4 federal periodic benefits for such week, which amount is to
5 be calculated from the date of the disability social
6 security entitlement.

7 {5}--Notwithstanding subsection {3}, beginning July 1,
8 1987, through June 30, 1989, 1991, weekly compensation
9 benefits for temporary total disability may not exceed the
10 state's average weekly wage of \$299 established July 1,
11 1986."

12 **Section 2.** Section 39-71-702, MCA, is amended to read:
13 39-71-702. Compensation for permanent total
14 disability. (1) If a worker is no longer temporarily
15 totally disabled and is unable to return to work due to
16 injury, the worker is eligible for permanent total
17 disability benefits. At an insurer's request, an evaluation
18 of all options under 39-71-1012 must be made before
19 permanent total disability status is determined. Permanent
20 total disability benefits must be paid for the duration of
21 the worker's permanent total disability, subject to
22 39-71-710 and 39-71-1026.

23 {2}--The determination of permanent total disability
24 must be supported by a preponderance of medical evidence.

25 {3}--Weekly compensation benefits for an injury

1 resulting in permanent total disability shall be 66-2/3% of
2 the wages received at the time of the injury. The maximum
3 weekly compensation benefits shall not exceed the state's
4 average weekly wage at the time of injury.

5 {4}--In cases where it is determined that periodic
6 disability benefits granted by the Social Security Act are
7 payable because of the injury, the weekly benefits payable
8 under this section are reduced, but not below zero, by an
9 amount equal, as nearly as practical, to one-half the
10 federal periodic benefits for such week, which amount is to
11 be calculated from the date of the disability social
12 security entitlement.

13 {5}--A worker's benefit amount must be adjusted for a
14 cost-of-living increase on the next July 1 after 104 weeks
15 of permanent total disability benefits have been paid and on
16 each succeeding July 1. A worker may not receive more than
17 10 such adjustments. The adjustment must be the percentage
18 increase, if any, in the state's average weekly wage as
19 adopted by the department over the state's average weekly
20 wage adopted for the previous year or 3%, whichever is less.

21 {6}--Notwithstanding subsection {3}, beginning July 1,
22 1987, through June 30, 1989, 1991, the maximum weekly
23 compensation benefits for permanent total disability may not
24 exceed the state's average weekly wage of \$299 established
25 July 1, 1986."

Section 3. Section 39-71-703, MCA, is amended to read:

"39-71-703. Compensation for permanent partial disability impairment awards and wage supplements. (i) The benefits available for permanent partial disability impairment awards and wage supplements. A worker who has reached maximum healing and is not eligible for permanent total disability benefits but who has a medically determined physical restriction as a result of a work-related injury may be eligible for an impairment award and wage supplement benefits as follows:

(a) The following procedure must be followed for an impairment award:

(i) Each percentage point of impairment is compensated in an amount equal to 5 weeks times 66-2/3% of the wages received at the time of the injury, subject to a maximum compensation rate of one-half of the state's average weekly wage at the time of injury.

(ii) When a worker reaches maximum healing, an impairment rating is rendered by one or more physicians as provided for in 39-71-711. Impairment benefits are payable beginning the date of maximum healing.

(iii) An impairment award may be paid biweekly or in a lump sum, at the discretion of the worker. Lump sums paid for impairments are not subject to the requirements set forth in 39-71-741, except that lump sum conversions for

benefits not accrued may be reduced to present value at the rate set forth by the department in 39-71-741(5).

(iv) If a worker becomes eligible for permanent total disability benefits, the insurer may recover any lump sum advance paid to a claimant for impairment, as set forth in 39-71-741(5). Such right of recovery does not apply to lump sum benefits paid for the period prior to claimant's eligibility for permanent total disability benefits.

(v) If a worker suffers additional injury, an impairment award payable for the additional injury must be reduced by the amount of a previous award paid for impairment to the same site on the body.

(b) The following procedure must be followed for a wage supplement:

(i) A worker must be compensated in weekly benefits equal to 66-2/3% of the difference between the worker's actual wages received at the time of the injury and the wages the worker is qualified to earn in the worker's job pool, subject to a maximum compensation rate of one-half the state's average weekly wage at the time of injury.

(ii) Eligibility for wage supplement benefits begins at maximum healing and terminates at the expiration of 500 weeks minus the number of weeks for which a worker's impairment award is payable, subject to 39-71-710. A worker's failure to sustain a wage loss compensable under

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subsection--(1)(b)(i)--does--not--extend--the--period--of
eligibility--However--if--a--worker--becomes--eligible--for
temporary--total--disability--permanent--total--disability--or
total--rehabilitation--benefits--after--reaching--maximum
healing--the--eligibility--period--for--wage--supplement--benefits
is--extended--by--any--period--for--which--a--worker--is--compensated
by--those--benefits--after--reaching--maximum--healing--

(2)--The--determination--of--permanent--partial--disability
must--be--supported--by--a--preponderance--of--medical--evidence--

(3)--Notwithstanding--subsection--(1)--beginning--July--1--
1987--through--June--30--1989--1991--the--maximum--weekly
compensation--benefits--for--permanent--partial--disability--may
not--exceed--\$149.50--which--is--one--half--the--state's--average
weekly--wage--established--July--1--1986--"

Section 4. Section 39-71-704, MCA, is amended to read:

"39-71-704. Payment--of--medical--hospital--and--related
services--fee--schedules--and--hospital--rates--(1)--In
addition--to--the--compensation--provided--by--this--chapter--and--as
an--additional--benefit--separate--and--apart--from--compensation--
the--following--must--be--furnished--

(a)--After--the--happening--of--the--injury--the--insurer
shall--furnish--without--limitation--as--to--length--of--time--or
dollar--amount--reasonable--services--by--a--physician--or
surgeon--reasonable--hospital--services--and--medicines--when
needed--and--such--other--treatment--as--may--be--approved--by--the

department--for--the--injuries--sustained--

(b)--The--insurer--shall--replace--or--repair--prescription
eyeglasses--prescription--contact--lenses--prescription
hearing--aids--and--dentures--that--are--damaged--or--lost--as--a
result--of--an--injury--as--defined--in--39-71-119--arising--out--of
and--in--the--course--of--employment--

(c)--The--insurer--shall--reimburse--a--worker--for
reasonable--travel--expenses--incurred--in--travel--to--a--medical
provider--for--treatment--of--an--injury--pursuant--to--rules
adopted--by--the--department--Reimbursement--must--be--at--the
rates--allowed--for--reimbursement--of--travel--by--state
employees--

(2)--A--relative--value--fee--schedule--for--medical--
chiropractic--and--paramedical--services--provided--for--in--this
chapter--excluding--hospital--services--must--be--established
annually--by--the--department--and--become--effective--in--January
of--each--year--The--maximum--fee--schedule--must--be--adopted--as--a
relative--value--fee--schedule--of--medical--chiropractic--and
paramedical--services--with--unit--values--to--indicate--the
relative--relationship--within--each--grouping--of--specialties--
Medical--fees--must--be--based--on--the--median--fees--as--billed--to
the--state--fund--during--the--year--preceding--the--adoption--of--the
schedule--The--state--fund--shall--report--fees--billed--in--the
form--and--at--the--times--required--by--the--department--The
department--shall--adopt--rules--establishing--relative--unit

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values,--groups-of-specialties,--the-procedures-insurers-must
use-to-pay-for-services-under-the-schedule-and--the--method
of--determining--the--median--of--billed-medical-fees--These
rules-must-be-modeled-on--the--1974--revision--of--the--1969
California-Relative-Value-Studies.

{3}--Beginning--January--1,--1988,--the-department-shall
establish-rates-for--hospital--services--necessary--for--the
treatment--of--injured--workers--Approved--rates-must-be-in
effect-for-a-period-of-12-months-from-the-date-of--approval.
The-department-may-coordinate-this-ratesetting-function-with
other-public-agencies-that-have-similar-responsibilities.

{4}--Notwithstanding--subsection-(2),--beginning-January
1,--1988,--and-ending-January-1,--1990--through--December-31,
1991,--the--maximum-fees-payable-by-insurers-must-be-limited
to-the-relative-value-fee-schedule-established--in--January
1987,--Notwithstanding--subsection-(3),--beginning-January-1,
1988,--through-December-31,--1991,--the-hospital-rates--payable
by--insurers--must--be-limited-to-those-set-in-January-1988,
until-December-31,--1989."

Section 5. Section 39-71-721, MCA, is amended to read:

"39-71-721. Compensation for injury causing death--
limitation:--(1)-(a)--If--an--injured-employee-dies-and-the
injury-was-the-proximate--cause--of--such--death,--then--the
beneficiary--of--the--deceased--is--entitled--to--the--same
compensation--as--though--the--death--occurred--immediately

following--the--injury,--A--beneficiary's--eligibility--for
benefits-commences-after-the-date-of-death,--and-the--benefit
level-is-established-as-set-forth-in-subsection-(2);

(b)--The--insurer--is--entitled--to--recover--any
overpayments-or-compensation-paid-in-a-lump-sum-to-a--worker
prior--to--death--but--not--yet--recouped. The-insurer-shall
recover--such--payments--from--the--beneficiary's--biweekly
payments-as-provided-in-39-71-741(5);

(2)--To--beneficiaries--as--defined--in-39-71-116(2)(a)
through-(2)(d),--weekly-compensation-benefits-for--an--injury
causing--death--are--66-2/3%--of--the-decedent's-wages--The
maximum-weekly--compensation--benefit--may--not--exceed--the
state's--average--weekly--wage--at--the--time-of-injury. The
minimum-weekly-compensation-benefit-is-50%--of--the--state's
average--weekly--wage,--but--in--no--event-may-it-exceed-the
decedent's-actual-wages-at-the-time-of-his-death;

(3)--To--beneficiaries--as--defined--in-39-71-116(2)(c) and
(2)(f),--weekly-benefits-must-be-paid-to-the--extent--of--the
dependency--at--the-time-of-the-injury,--subject-to-a-maximum
of-66-2/3%--of--the--decedent's-wages--The--maximum--weekly
compensation--may-not-exceed-the-state's-average-weekly-wage
at-the-time-of-injury;

(4)--If--the-decedent-leaves-no-beneficiary--as--defined
in--39-71-116(2),--a-lump-sum-payment-of-\$3,000-must-be-paid
to-the-decedent's-surviving-parent-or-parents;

1 {5}--if-any-beneficiary-of-a-deceased-employee-dies,
2 the--right-of--such--beneficiary-to-compensation-under-this
3 chapter-ceases.-Death-benefits-must-be-paid-to--a--surviving
4 spouse--for-500-weeks-subsequent-to-the-date-of-the-deceased
5 employee's-death-or-until-the-spouse's-remarriage,whichever
6 occurs-first.-After-benefit-payments-cease--to--a--surviving
7 spouse,-death--benefits--must--be-paid-to-beneficiaries,-if
8 any,-as-defined-in-39-71-116(2)(b)-through-(2)(d);

9 {6}--In-all-cases,-benefits--must--be--paid--to
10 beneficiaries,-as-defined-in-39-71-116(2);

11 {7}--Benefits--paid--under--this--section--may--not--be
12 adjusted-for-cost-of-living-as-provided-in-39-71-702;

13 {8}--Notwithstanding-subsections-(2)-and-(3),-beginning
14 July-17-1987,-through-June-30,-1989-1991,-the-maximum-weekly
15 compensation-benefits--for--injury--causing--death--may--not
16 exceed--the--state's-average-weekly-wage-of-\$299-established
17 July-17-1986.-Beginning-July-17-1987,-through-June-30,-1989
18 1991,-the--minimum--weekly--compensation-for-injury-causing
19 death-shall-be-\$149.50,-which-is-50%-of-the-state's--average
20 weekly-wage-established-July-17-1986,-but-in-no-event-may-it
21 exceed-the-decedent's-actual-wages-at-the-time-of-death."

22 **Section 6.**--Section--39-71-1024,-MCA,-is--amended--to
23 read:

24 "39-71-1024.-Wage-----supplement-----and-----partial
25 rehabilitation--benefits:---(1)--A-worker-who-is-in-a

1 rehabilitation-program-under-39-71-1019-in--accordance--with
2 and-for-the-maximum-duration-established-by-a-final-order-of
3 determination--by--the-department-is-eligible-to-receive-the
4 following-benefits:

5 (a)--wage-supplement-benefits-as-provided-in--39-71-703
6 but--with--the--rate-based-on-66-2/3%-of-the-worker's-actual
7 wages-received-at-the-time-of-injury,-subject-to--a--maximum
8 of-one-half-the-state's-average-weekly-wage,-and

9 (b)--a-partial-rehabilitation-benefit-that,-together
10 with-the-wage--supplement--provided--in--subsection--(1)(a),
11 provides--the--worker--with--weekly--benefits--equal--to-the
12 worker's-temporary-total-disability-rate;

13 (2)--After--the--worker--completes--the--rehabilitation
14 program,-the-worker's-further-eligibility,-if-any,-for-wage
15 supplement-benefits-under-39-71-703-is-reduced-by-the-number
16 of--weeks--of--wage--supplement--benefits--received--under
17 subsection-(1)(a);

18 (3)--Notwithstanding--subsection-(1)(a),-beginning-July
19 17-1987,-through-June-30,-1989-1991,-the--maximum--weekly
20 compensation--benefit--under--that-subsection-may-not-exceed
21 \$149.50,-which--is--one-half--the--state's--weekly--wage
22 established-July-17-1986."

23 **Section 7.**--Section--39-71-2501,-MCA,-is--amended--to
24 read:

25 "39-71-2501.-{Temporary}-Definitions.-As-used-in-this

1 part the following definitions apply:

2 {1}--"Department"--means the department of labor and
3 industry provided for in 2-15-1701 revenue provided for in
4 2-15-1301;

5 {2}--"Employee"--has the meaning set forth in 39-71-110;

6 {2}{3}--"Employer"--has the meaning set forth in
7 39-71-117;

8 {3}{4}--"Payroll"--means the payroll of an employer for
9 each of the calendar quarters ending March 31, June 30,
10 September 30, and December 31, for all employments covered
11 under 39-71-401;

12 {4}{5}--"State fund"--means the state compensation
13 mutual insurance fund;

14 {5}{6}--"Tax"--means the workers' compensation payroll
15 and wage tax provided for in 39-71-2503;

16 {6}{7}--"Tax account"--means the workers' compensation
17 payroll and wage tax account created by 39-71-2504;

18 {8}--"Wages"--has the meaning set forth in 39-71-123;
19 {Terminates June 30, 1991, sec. 107 Ch. 664, Br. 1987.}

20 Section 2. Section 39-71-2502, NCA, is amended to
21 read:

22 "39-71-2502--{Temporary}--Findings and purpose--{1}
23 Based on current liabilities and actuarial analysis, an
24 unfunded liability presently exists in the state fund and is
25 projected to increase. While legislative action is required

1 to correct the causes of the unfunded liability, those
2 actions will not provide sufficient funds to permit the
3 state fund to pay its existing liabilities and obligations
4 in a timely manner from premium and investment income
5 available to the state fund. Therefore, it is necessary to
6 provide a source other sources of funding for the unfunded
7 liability in addition to premium and investment income.

8 {2}--The police power of the state extends to all great
9 public needs. The state, in the exercise of its police
10 power, has determined that it is greatly and immediately
11 necessary to the public welfare to make workers'
12 compensation insurance available to all employers through
13 the state fund as the insurer of last resort. In making this
14 insurance available, the state fund has incurred the
15 unfunded liability described in subsection {1}. The burden
16 of this unfunded liability should not be borne solely by
17 those employers who have insured with the state fund because
18 the availability of insurance to all employers through the
19 state fund has benefited all employers who have workers'
20 compensation coverage, nor should this unfunded liability be
21 borne by employers only. Therefore, all employers who have
22 employments and employees covered by the workers'
23 compensation laws should share in the cost of the unfunded
24 liability.

25 {3}--The purpose of this part is to provide a

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supplemental--source--sources--of-financing-for-the-unfunded
liability.--(Terminates-June-30,1991--sec--107-Chr--6647--B-
1987.)"

Section 8. Section 39-71-2503, MCA, is amended to
read:

"39-71-2503. (Temporary) Workers' compensation payroll
and wage tax-----penalty. (1) (a) There is a workers'
compensation payroll and wage tax. The tax must be imposed
on:

(i) each employer a workers' compensation payroll tax
in an amount equal to 0.3% of the employer's payroll in the
preceding calendar quarter for all employments covered under
39-71-401; and

(ii) each employee in an amount equal to 0.3% of the
employee's wages in the preceding calendar quarter for all
employments covered under 39-71-401;

(b) For the purpose of this tax, a sole proprietor
shall pay only the employer's payroll tax on his own
employment;

(2) This payroll tax must be used to reduce the
unfunded liability in the state fund;

(b)(3) The tax is due and payable 30 days following
the end of each calendar quarter, commencing with the
quarter ending September 30, 1987;

(c)(4) The tax must be paid to and collected by the

department. The department shall prepare appropriate returns
to be filed by each employer or insurer with the payment of
the tax. Each employer shall withhold from an employee's
wages the wage tax provided for in subsection (1)(a)(i) and
pay it to the department;

(d)(5) Each employer shall maintain the records the
department requires concerning the employer's payroll. The
records are subject to inspection by the department and its
employees and agents during regular business hours;

(e)(6) Taxes not paid when due bear interest at the
rate of 1% a month. The employer shall also pay a penalty
equal to 10% of the amount of the delinquent tax;

(2)(7) All collections of the tax are appropriated to
and must be deposited as received in the tax account. The
tax is in addition to any other tax or fee assessed against
employers and employees subject to the tax;

(3)(8) Sections 15-35-112 through 15-35-114,
15-35-121, and 15-35-122 regarding deficiency assessments,
credits for overpayment, statute of limitations, penalties,
and department rulemaking authority apply to the tax, to
employers and employees, and to the department. (Terminates
June 30, 1991--sec--107-Chr--6647-B-1987.)"

SECTION 1. SECTION 15-31-101, MCA, IS AMENDED TO READ:

"15-31-101. Organizations subject to tax. (1) The term
"corporation" includes associations, joint-stock companies,

1 common-law trusts and business trusts which do business in
2 an organized capacity, and all other corporations whether
3 created, organized, or existing under and pursuant to the
4 laws, agreements, or declarations of trust of any state,
5 country, or the United States.

6 (2) The terms "engaged in business" and "doing
7 business" both mean actively engaging in any transaction for
8 the purpose of financial or pecuniary gain or profit.

9 (3) Except as provided in 15-31-103 or 33-2-705(4) or
10 as may be otherwise specifically provided, every corporation
11 engaged in business in the state of Montana shall annually
12 pay to the state treasurer as a license fee for the
13 privilege of carrying on business in this state such
14 percentage or percentages of its total net income for the
15 preceding taxable year at the rate hereinafter set forth. In
16 the case of corporations having income from business
17 activity which is taxable both within and without this
18 state, the license fee shall be measured by the net income
19 derived from or attributable to Montana sources as
20 determined under part 3. This Except as provided in
21 15-31-502, this tax is due and payable on the 15th day of
22 the 5th month following the close of the taxable year of the
23 corporation; however, the tax becomes a lien as provided in
24 this chapter on the last day of the taxable year in which
25 the income was earned and is for the privilege of carrying

1 on business in this state for the taxable year in which the
2 income was earned.

3 (4) Every bank organized under the laws of the state
4 of Montana, of any other state, or of the United States and
5 every savings and loan association organized under the laws
6 of this state or of the United States is subject to the
7 Montana corporation license tax provided for under this
8 chapter. For taxable years beginning on and after January 1,
9 1972, this subsection is effective in accordance with Public
10 Law 91-156, section 2 (12 U.S.C. 546)."

11 SECTION 2. SECTION 15-31-502, MCA, IS AMENDED TO READ:

12 "15-31-502. Assessment and payment of tax--penalty,
13 and--interest -- estimated tax payment. (1) All taxpayers
14 shall compute the amount of tax payable under this chapter
15 and shall remit such the amount to the department of revenue
16 on or before the 15th day of the 5th month following the
17 close of the taxable period. ~~If the tax is not paid on or~~
18 ~~before the due date, there shall be assessed a penalty of~~
19 ~~10% of the amount of the tax unless it is shown that the~~
20 ~~failure was due to reasonable cause and not due to neglect.~~
21 ~~If any tax due under this chapter is not paid when due, by~~
22 ~~reason of extension granted or otherwise, interest shall be~~
23 ~~added thereto at the rate of 12% per annum from the due date~~
24 ~~until paid.~~

25 (2) Each corporation shall make estimated tax payments

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1 if its annual estimated tax can reasonably be expected to be
 2 \$5,000 or more. The estimated payments must be made in
 3 installments as follows:

4 (a) If the \$5,000 threshold is met or exceeded:
 5 The following percentages of the estimated tax must be
 6 paid on the 15th day of the
 7 applicable months:
 8 4th 6th 9th 12th
 9 month month month month
 10 Before the 1st day of the
 11 4th month of the taxable
 12 year: 25% 25% 25% 25%
 13 After the last day of the
 14 3rd month and before the
 15 1st day of the 6th month of
 16 the taxable year: 33 1/3% 33 1/3% 33 1/3%
 17 After the last day of the
 18 5th month and before the
 19 1st day of the 9th month of
 20 the taxable year: 50% 50%
 21 After the last day of the
 22 8th month and before the
 23 12th month of the taxable
 24 year: 100%
 25 (b) If after paying any installment of estimated tax

1 the taxpayer makes a new estimate, the amount of each
 2 installment, if any, is the amount that would have been paid
 3 if the new estimate had been made when the first estimate
 4 for the taxable year was made, increased or decreased, as
 5 the case may be, by the amount computed by dividing:

6 (i) the difference between:
 7 (A) the amount of estimated tax required to be paid
 8 before the date on which the new estimate was made; and
 9 (B) the amount of estimated tax that would have been
 10 required to be paid before that date if the new estimate had
 11 been made when the first estimate was made;

12 (ii) by the number of installments remaining to be paid
 13 on or after the date on which the new estimate was made.

14 (3) The application of this section to taxable years
 15 of less than 12 months must be in accordance with rules
 16 adopted by the department.

17 (4) At the election of the corporation, any
 18 installment of the estimated tax may be paid before the date
 19 prescribed for its payment."

20 NEW SECTION. SECTION 3. ESTIMATED PAYMENTS --
 21 INTEREST PENALTY -- TAX RETURNS -- PENALTY -- INTEREST. (1)
 22 FOR CORPORATIONS FAILING TO MAKE ESTIMATED PAYMENTS
 23 ACCORDING TO THE SCHEDULE PROVIDED IN 15-31-502(2), THERE IS
 24 ASSESSED A 20% PER ANNUM UNDERPAYMENT INTEREST PENALTY
 25 CALCULATED AS FOLLOWS:

(A) FOR PURPOSES OF THIS SUBSECTION (A), THE AMOUNT OF UNDERPAYMENT IS IN EXCESS OF THE AMOUNT OF THE INSTALLMENT THAT WOULD BE REQUIRED TO BE PAID IF THE ESTIMATED TAX WERE EQUAL TO 80% OF THE TAX SHOWN ON THE RETURN FOR THE TAXABLE YEAR OR, IF NO RETURN WAS FILED, 80% OF THE TAX FOR THE YEAR OVER THE AMOUNT, IF ANY, OF THE INSTALLMENT PAID ON OR BEFORE THE LAST DATE PRESCRIBED FOR PAYMENT.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(A), THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT OF ANY INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF ALL PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST DATE PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR EXCEEDS THE AMOUNT THAT WOULD HAVE BEEN REQUIRED TO BE PAID ON OR BEFORE THAT DATE IF THE ESTIMATED TAX WERE THE LESSER OF THE FOLLOWING:

(I) THE TAX SHOWN ON THE RETURN OF THE CORPORATION FOR THE PRECEDING TAXABLE YEAR IF A RETURN SHOWING A LIABILITY FOR TAX WAS FILED FOR THE PRECEDING TAXABLE YEAR AND THE PRECEDING YEAR WAS A TAXABLE YEAR OF 12 MONTHS;

(II) AN AMOUNT EQUAL TO THE TAX COMPUTED AT THE RATES APPLICABLE TO THE TAXABLE YEAR, BUT OTHERWISE ON THE BASIS OF THE FACTS SHOWN ON THE RETURN OF THE CORPORATION FOR, AND THE LAW APPLICABLE TO, THE PRECEDING TAXABLE YEAR; OR

(III) AN AMOUNT EQUAL TO 80% OF THE TAX FOR THE TAXABLE YEAR, COMPUTED BY PLACING ON AN ANNUALIZED BASIS THE TAXABLE

INCOME:

(A) FOR THE FIRST 3 MONTHS OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 4TH MONTH;

(B) FOR THE FIRST 3 MONTHS OR FOR THE FIRST 5 MONTHS OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 6TH MONTH;

(C) FOR THE FIRST 6 MONTHS OR FOR THE FIRST 8 MONTHS OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 9TH MONTH; AND

(D) FOR THE FIRST 9 MONTHS OR FOR THE FIRST 11 MONTHS OF THE TAXABLE YEAR IN THE CASE OF THE INSTALLMENT REQUIRED TO BE PAID IN THE 12TH MONTH OF THE TAXABLE YEAR.

(C) FOR PURPOSES OF SUBSECTION (1)(B)(III), THE TAXABLE INCOME MUST BE PLACED ON AN ANNUALIZED BASIS BY:

(I) MULTIPLYING BY 12 THE TAXABLE INCOME REFERRED TO IN SUBSECTION (1)(B)(III); AND

(II) DIVIDING THE RESULTING AMOUNT BY THE NUMBER OF MONTHS IN THE TAXABLE YEAR (3, 5, 6, 8, 9, OR 11, AS THE CASE MAY BE) REFERRED TO IN SUBSECTION (1)(B)(III).

(D) NOTWITHSTANDING SUBSECTIONS (1)(A) THROUGH (1)(C), THE INTEREST PENALTY WITH RESPECT TO AN UNDERPAYMENT OF ANY INSTALLMENT MAY NOT BE IMPOSED IF THE TOTAL AMOUNT OF ALL PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE THE LAST DATE PRESCRIBED FOR THE PAYMENT OF THE INSTALLMENT EQUALS OR

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1 EXCEEDS 80% OF THE AMOUNT DETERMINED UNDER SUBSECTION
2 (1)(E).

3 (E) TO DETERMINE THE AMOUNT UNDER THIS SUBSECTION (E)
4 FOR ANY INSTALLMENT:

5 (I) TAKE THE TAXABLE INCOME FOR ALL MONTHS DURING THE
6 TAXABLE YEAR PRECEDING THE FILING MONTH;

7 (II) DIVIDE THE AMOUNT BY THE BASE PERIOD PERCENTAGE
8 FOR ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE FILING
9 MONTH;

10 (III) DETERMINE THE TAX ON THE AMOUNT CALCULATED UNDER
11 SUBSECTION (1)(E)(II); AND

12 (IV) MULTIPLY THE TAX COMPUTED UNDER SUBSECTION
13 (1)(E)(III) BY THE BASE PERIOD PERCENTAGE FOR THE FILING
14 MONTH AND ALL MONTHS DURING THE TAXABLE YEAR PRECEDING THE
15 FILING MONTH.

16 (F) FOR PURPOSES OF THIS SUBSECTION (1):

17 (I) THE BASE PERIOD PERCENTAGE FOR ANY PERIOD OF
18 MONTHS IS THE AVERAGE PERCENTAGE THAT THE TAXABLE INCOME FOR
19 THE CORRESPONDING MONTHS IN EACH OF THE 3 PRECEDING TAXABLE
20 YEARS BEARS TO THE TAXABLE INCOME OF THE 3 PRECEDING YEARS;

21 (II) THE TERM "FILING MONTH" MEANS THE MONTH IN WHICH
22 THE INSTALLMENT IS REQUIRED TO BE PAID;

23 (III) THIS SUBSECTION (1) APPLIES ONLY IF THE BASE
24 PERIOD PERCENTAGE FOR ANY 6 CONSECUTIVE MONTHS OF THE
25 TAXABLE YEAR EQUALS OR EXCEEDS 70%; AND

1 (IV) THE DEPARTMENT OF REVENUE MAY BY RULE PROVIDE FOR
2 THE DETERMINATION OF THE BASE PERIOD PERCENTAGE IN THE CASE
3 OF REORGANIZATIONS, NEW CORPORATIONS, AND OTHER SIMILAR
4 CIRCUMSTANCES.

5 (2) IF THE TAX FOR ANY CORPORATION IS NOT PAID ON OR
6 BEFORE THE DUE DATE OF THE RETURN AS PROVIDED IN
7 15-31-111(2), THERE IS ASSESSED A PENALTY OF 10% OF THE
8 AMOUNT OF THE TAX DUE, UNLESS IT IS SHOWN THAT THE FAILURE
9 WAS DUE TO REASONABLE CAUSE AND NOT TO NEGLECT.

10 (3) IF ANY TAX DUE UNDER THIS SECTION IS NOT PAID WHEN
11 DUE, BY REASON OF EXTENSION GRANTED OR OTHERWISE, INTEREST
12 IS ADDED TO THE TAX DUE AT THE RATE OF 12% A YEAR FROM THE
13 DUE DATE UNTIL PAID.

14 SECTION 4. SECTION 39-71-701, MCA, IS AMENDED TO READ:

15 "39-71-701. Compensation for temporary total
16 disability. (1) Subject to the limitation in 39-71-736, a
17 worker is eligible for temporary total disability benefits
18 when the worker suffers a total loss of wages as a result of
19 an injury and until the worker reaches maximum healing.

20 (2) The determination of temporary total disability
21 must be supported by a preponderance of medical evidence.

22 (3) Weekly compensation benefits for injury producing
23 temporary total disability shall be 66 2/3% of the wages
24 received at the time of the injury. The maximum weekly
25 compensation benefits shall may not exceed the state's

1 average weekly wage at the time of injury. Temporary total
2 disability benefits ~~shall~~ must be paid for the duration of
3 the worker's temporary disability. The weekly benefit amount
4 may not be adjusted for cost of living as provided in
5 39-71-702(5).

6 (4) In cases where it is determined that periodic
7 disability benefits granted by the Social Security Act are
8 payable because of the injury, the weekly benefits payable
9 under this section are reduced, but not below zero, by an
10 amount equal, as nearly as practical, to one-half the
11 federal periodic benefits for such week, which amount is to
12 be calculated from the date of the disability social
13 security entitlement.

14 (5) Notwithstanding subsection (3), beginning July 1,
15 1987, through June 30, ~~1989~~ 1991, weekly compensation
16 benefits for temporary total disability may not exceed the
17 state's average weekly wage of \$299 established July 1,
18 1986."

19 SECTION 5. SECTION 39-71-702, MCA, IS AMENDED TO READ:

20 "39-71-702. Compensation for permanent total
21 disability. (1) If a worker is no longer temporarily totally
22 disabled and is unable to return to work due to injury, the
23 worker is eligible for permanent total disability benefits.
24 At an insurer's request, an evaluation of all options under
25 39-71-1012 must be made before permanent total disability

1 status is determined. Permanent total disability benefits
2 must be paid for the duration of the worker's permanent
3 total disability, subject to 39-71-710 and 39-71-1026.

4 (2) The determination of permanent total disability
5 must be supported by a preponderance of medical evidence.

6 (3) Weekly compensation benefits for an injury
7 resulting in permanent total disability shall be $66 \frac{2}{3}\%$ of
8 the wages received at the time of the injury. The maximum
9 weekly compensation benefits shall not exceed the state's
10 average weekly wage at the time of injury.

11 (4) In cases where it is determined that periodic
12 disability benefits granted by the Social Security Act are
13 payable because of the injury, the weekly benefits payable
14 under this section are reduced, but not below zero, by an
15 amount equal, as nearly as practical, to one-half the
16 federal periodic benefits for such week, which amount is to
17 be calculated from the date of the disability social
18 security entitlement.

19 (5) A worker's benefit amount must be adjusted for a
20 cost-of-living increase on the next July 1 after 104 weeks
21 of permanent total disability benefits have been paid and on
22 each succeeding July 1. A worker may not receive more than
23 10 such adjustments. The adjustment must be the percentage
24 increase, if any, in the state's average weekly wage as
25 adopted by the department over the state's average weekly

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wage adopted for the previous year or 3%, whichever is less.

(6) Notwithstanding subsection (3), beginning July 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly compensation benefits for permanent total disability may not exceed the state's average weekly wage of \$299 established July 1, 1986."

SECTION 6. SECTION 39-71-703, MCA, IS AMENDED TO READ:

"39-71-703. Compensation for permanent partial disability -- impairment awards and wage supplements. (1) The benefits available for permanent partial disability are impairment awards and wage supplements. A worker who has reached maximum healing and is not eligible for permanent total disability benefits but who has a medically determined physical restriction as a result of a work-related injury may be eligible for an impairment award and wage supplement benefits as follows:

(a) The following procedure must be followed for an impairment award:

(i) Each percentage point of impairment is compensated in an amount equal to 5 weeks times $66 \frac{2}{3}\%$ of the wages received at the time of the injury, subject to a maximum compensation rate of one-half of the state's average weekly wage at the time of injury.

(ii) When a worker reaches maximum healing, an impairment rating is rendered by one or more physicians as

provided for in 39-71-711. Impairment benefits are payable beginning the date of maximum healing.

(iii) An impairment award may be paid biweekly or in a lump sum, at the discretion of the worker. Lump sums paid for impairments are not subject to the requirements set forth in 39-71-741, except that lump-sum conversions for benefits not accrued may be reduced to present value at the rate set forth by the department in 39-71-741(5).

(iv) If a worker becomes eligible for permanent total disability benefits, the insurer may recover any lump-sum advance paid to a claimant for impairment, as set forth in 39-71-741(5). Such right of recovery does not apply to lump-sum benefits paid for the period prior to claimant's eligibility for permanent total disability benefits.

(v) If a worker suffers additional injury, an impairment award payable for the additional injury must be reduced by the amount of a previous award paid for impairment to the same site on the body.

(b) The following procedure must be followed for a wage supplement:

(i) A worker must be compensated in weekly benefits equal to $66 \frac{2}{3}\%$ of the difference between the worker's actual wages received at the time of the injury and the wages the worker is qualified to earn in the worker's job pool, subject to a maximum compensation rate of one-half the

1 state's average weekly wage at the time of injury.

2 (ii) Eligibility for wage supplement benefits begins at
3 maximum healing and terminates at the expiration of 500
4 weeks minus the number of weeks for which a worker's
5 impairment award is payable, subject to 39-71-710. A
6 worker's failure to sustain a wage loss compensable under
7 subsection (1)(b)(i) does not extend the period of
8 eligibility. However, if a worker becomes eligible for
9 temporary total disability, permanent total disability, or
10 total rehabilitation benefits after reaching maximum
11 healing, the eligibility period for wage supplement benefits
12 is extended by any period for which a worker is compensated
13 by those benefits after reaching maximum healing.

14 (2) The determination of permanent partial disability
15 must be supported by a preponderance of medical evidence.

16 (3) Notwithstanding subsection (1), beginning July 1,
17 1987, through June 30, 1989 1991, the maximum weekly
18 compensation benefits for permanent partial disability may
19 not exceed \$149.50, which is one-half the state's average
20 weekly wage established July 1, 1986."

21 SECTION 7. SECTION 39-71-704, MCA, IS AMENDED TO READ:

22 "39-71-704. Payment of medical, hospital, and related
23 services -- fee schedules and hospital rates. (1) In
24 addition to the compensation provided by this chapter and as
25 an additional benefit separate and apart from compensation,

1 the following must be furnished:

2 (a) After the happening of the injury, the insurer
3 shall furnish, without limitation as to length of time or
4 dollar amount, reasonable services by a physician or
5 surgeon, reasonable hospital services and medicines when
6 needed, and such other treatment as may be approved by the
7 department for the injuries sustained.

8 (b) The insurer shall replace or repair prescription
9 eyeglasses, prescription contact lenses, prescription
10 hearing aids, and dentures that are damaged or lost as a
11 result of an injury, as defined in 39-71-119, arising out of
12 and in the course of employment.

13 (c) The insurer shall reimburse a worker for
14 reasonable travel expenses incurred in travel to a medical
15 provider for treatment of an injury pursuant to rules
16 adopted by the department. Reimbursement must be at the
17 rates allowed for reimbursement of travel by state
18 employees.

19 (2) A relative value fee schedule for medical,
20 chiropractic, and paramedical services provided for in this
21 chapter, excluding hospital services, must be established
22 annually by the department and become effective in January
23 of each year. The maximum fee schedule must be adopted as a
24 relative value fee schedule of medical, chiropractic, and
25 paramedical services, with unit values to indicate the

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relative relationship within each grouping of specialties. Medical fees must be based on the median fees as billed to the state fund during the year preceding the adoption of the schedule. The state fund shall report fees billed in the form and at the times required by the department. The department shall adopt rules establishing relative unit values, groups of specialties, the procedures insurers must use to pay for services under the schedule, and the method of determining the median of billed medical fees. These rules must be modeled on the 1974 revision of the 1969 California Relative Value Studies.

(3) Beginning January 1, 1988, the department shall establish rates for hospital services necessary for the treatment of injured workers. Approved rates must be in effect for a period of 12 months from the date of approval. The department may coordinate this ratesetting function with other public agencies that have similar responsibilities.

(4) Notwithstanding subsection (2), beginning January 1, 1988, and ~~ending January 1, 1990~~ through December 31, 1991, the maximum fees payable by insurers must be limited to the relative value fee schedule established in January 1987. Notwithstanding subsection (3), beginning January 1, 1988, through December 31, 1991, the hospital rates payable by insurers must be limited to those set in January 1988, ~~until December 31, 1989.~~

SECTION 8. SECTION 39-71-721, MCA, IS AMENDED TO READ:

"39-71-721. Compensation for injury causing death -- limitation. (1) (a) If an injured employee dies and the injury was the proximate cause of such death, then the beneficiary of the deceased is entitled to the same compensation as though the death occurred immediately following the injury. A beneficiary's eligibility for benefits commences after the date of death, and the benefit level is established as set forth in subsection (2).

(b) The insurer is entitled to recover any overpayments or compensation paid in a lump sum to a worker prior to death but not yet recouped. The insurer shall recover such payments from the beneficiary's biweekly payments as provided in 39-71-741(5).

(2) To beneficiaries as defined in 39-71-116(2)(a) through (2)(d), weekly compensation benefits for an injury causing death are 66 2/3% of the decedent's wages. The maximum weekly compensation benefit may not exceed the state's average weekly wage at the time of injury. The minimum weekly compensation benefit is 50% of the state's average weekly wage, but in no event may it exceed the decedent's actual wages at the time of his death.

(3) To beneficiaries as defined in 39-71-116(2)(e) and (2)(f), weekly benefits must be paid to the extent of the dependency at the time of the injury, subject to a maximum

1 of 66 2/3% of the decedent's wages. The maximum weekly
2 compensation may not exceed the state's average weekly wage
3 at the time of injury.

4 (4) If the decedent leaves no beneficiary as defined
5 in 39-71-116(2), a lump-sum payment of \$3,000 must be paid
6 to the decedent's surviving parent or parents.

7 (5) If any beneficiary of a deceased employee dies,
8 the right of such beneficiary to compensation under this
9 chapter ceases. Death benefits must be paid to a surviving
10 spouse for 500 weeks subsequent to the date of the deceased
11 employee's death or until the spouse's remarriage, whichever
12 occurs first. After benefit payments cease to a surviving
13 spouse, death benefits must be paid to beneficiaries, if
14 any, as defined in 39-71-116(2)(b) through (2)(d).

15 (6) In all cases, benefits must be paid to
16 beneficiaries, as defined in 39-71-116(2).

17 (7) Benefits paid under this section may not be
18 adjusted for cost of living as provided in 39-71-702.

19 (8) Notwithstanding subsections (2) and (3), beginning
20 July 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly
21 compensation benefits for injury causing death may not
22 exceed the state's average weekly wage of \$299 established
23 July 1, 1986. Beginning July 1, 1987, through June 30, ~~1989~~
24 1991, the minimum weekly compensation for injury causing
25 death shall be \$149.50, which is 50% of the state's average

1 weekly wage established July 1, 1986, but in no event may it
2 exceed the decedent's actual wages at the time of death."

3 **Section 9.** Section 39-71-1024, MCA, is amended to
4 read:

5 "39-71-1024. Wage supplement and partial
6 rehabilitation benefits. (1) A worker who is in a
7 rehabilitation program under 39-71-1019 in accordance with
8 and for the maximum duration established by a final order of
9 determination by the department is eligible to receive the
10 following benefits:

11 (a) wage supplement benefits as provided in 39-71-703
12 but with the rate based on 66 2/3% of the worker's actual
13 wages received at the time of injury, subject to a maximum
14 of one-half the state's average weekly wage; and

15 (b) a partial rehabilitation benefit that, together
16 with the wage supplement provided in subsection (1)(a),
17 provides the worker with weekly benefits equal to the
18 worker's temporary total disability rate.

19 (2) After the worker completes the rehabilitation
20 program, the worker's further eligibility, if any, for wage
21 supplement benefits under 39-71-703 is reduced by the number
22 of weeks of wage supplement benefits received under
23 subsection (1)(a).

24 (3) Notwithstanding subsection (1)(a), beginning July
25 1, 1987, through June 30, ~~1989~~ 1991, the maximum weekly

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1 compensation benefit under that subsection may not exceed
2 \$149.50, which is one-half the state's weekly wage
3 established July 1, 1986."

4 **Section 10.** Section 39-71-2504, MCA, is amended to
5 read:

6 "39-71-2504. (Temporary) Workers' compensation payroll
7 ~~and---wage~~ tax account. (1) There is an a workers'
8 compensation payroll-and---wage tax account in the state
9 special revenue fund.

10 (2) All collections of the tax, and interest and
11 penalties on the tax, AND REVENUE APPROPRIATED TO THE
12 ACCOUNT UNDER [SECTION 2] must be deposited in the account
13 and are statutorily appropriated, as provided in 17-7-502,
14 to the department to be used to reduce the unfunded
15 liability in the state fund. (Terminates June 30,
16 1991--sec. 10, Ch. 664, L. 1987.)"

17 NEW SECTION. SECTION 11. APPROPRIATION. THERE IS
18 APPROPRIATED \$20 MILLION FROM THE GENERAL FUND TO THE
19 WORKERS' COMPENSATION TAX ACCOUNT IN THE STATE SPECIAL
20 REVENUE FUND FOR FISCAL YEAR 1990 TO BE USED TO REDUCE THE
21 UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL
22 INSURANCE FUND.

23 NEW-SECTION.---Section-11.---Construction---of---law.
24 Nothing-in-39-71-2501-through-39-71-2504-may-be-construed-to
25 conflict-with-the-provisions-of-39-71-406.

1 NEW SECTION. SECTION 12. EXEMPTION FROM NOTICE
2 REQUIREMENT. THE 30-DAY NOTICE REQUIREMENT IMPOSED UNDER
3 39-71-2304(1) DOES NOT APPLY TO RATE CHANGES EFFECTIVE JULY
4 1, 1989, MADE IN RESPONSE TO THE PROVISIONS OF [THIS ACT].

5 NEW SECTION. Section 13. Severability. If a part of
6 [this act] is invalid, all valid parts that are severable
7 from the invalid part remain in effect. If a part of [this
8 act] is invalid in one or more of its applications, the part
9 remains in effect in all valid applications that are
10 severable from the invalid applications.

11 NEW SECTION. SECTION 14. CODIFICATION. [SECTION 3]
12 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15,
13 CHAPTER 31, AND THE PROVISIONS OF TITLE 15, CHAPTER 31,
14 APPLY TO [SECTION 3].

15 NEW SECTION. SECTION 15. APPLICABILITY. [SECTIONS 1
16 THROUGH 3] APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER
17 31, 1989.

18 NEW-SECTION.---Section-13.---Retroactive---applicability.
19 {Section--9}---applies---retroactively,---within-the-meaning-of
20 1-2-1997-to-all-employee-wages-earned-on-or--after--July--17
21 1989.

22 NEW-SECTION.---SECTION 11.---COORDINATION.---IF---SENATE
23 BILL-NO--14-IS-NOT-PASSED-AND-APPROVED-OR-IF-SENATE-BILL-NO-
24 14-IS-PASSED-AND-APPROVED--BUT--DOES--NOT--PROVIDE--FOR--THE
25 ACCELERATED-COLLECTION-OF-CORPORATE-INCOME-AND-LICENSE-TAXES

1 ~~WITH--THE--DEPOSIT--OF--AT--LEAST--\$15-MILLION-OF-ACCELERATED~~
 2 ~~COLLECTIONS-IN-THE-GENERAL-FUND--{THIS-ACT}-IS-VOID.~~

3 NEW SECTION. Section 16. Effective date. [This act],
 4 section--57,--Chapter--83,--laws--of--1989,--and--section--23,
 5 Chapter--613,--laws--of--1989,--are IS effective on passage and
 6 approval of--{this-act}.

7 NEW-SECTION. Section 15. Termination:---{Section--11}
 8 terminates--June--30,--1991.

-End-

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